Auburn Seminary
WITHDRAWN

A HISTORY OF POLITICAL THEORIES

ANCIENT AND MEDIÆVAL

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A HISTORY OF POLITICAL THEORIES

ANCIENT AND MEDIÆVAL

BY

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New York

THE MACMILLAN COMPANY

LONDON: MACMILLAN & CO., LTD.

1927

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Set up and electrotyped. Published January, 1902.

Norwood Press
J. S. Cushing & Co. — Berwick & Smith Co.
Norwood, Mass., U.S.A.

To

PROFESSOR JOHN W. BURGESS

WHO HAS SO POWERFULLY STIMULATED

THE STUDY OF BOTH HISTORY AND POLITICAL THEORY

IN AMERICA

THIS HISTORY OF POLITICAL THEORIES

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PREFACE

THAT comprehensive systems of political theory should never have had much vogue in England and America is a fact that may be explained by certain well-established race or national characteristics. But it is not so easy to understand why the history of political theories has attracted but little attention. The possession and application of eminently just ideas of government have been the boast of English-speaking peoples on both sides of the Atlantic. But with all the devotion of their scholars to historical research, especially in the last quarter of a century, there has been no serious attempt to trace out, in origin and development, the life of these ideas in the broad field of the world's progress. English-speaking students have indeed discarded the long-prevalent notion that little worthy of scholarly historical investigation ever happened in political life or thought prior to the Reformation or outside the circle of so-called Anglo-Saxon interests. Ancient and mediæval life and institutions have received much attention and have been the source of a literature which throws a brilliant lustre upon the

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scholarship of England and America. Besides the political and ecclesiastical institutions that have particularly attracted investigators, the conscious reflection of the peoples treated has been traced out with much diligence in the fields of *belles-lettres*, theology, metaphysics and ethics; but no one hitherto has sought to follow through ancient and mediæval times the course of ideas on the topics of political science.

It is to fill the void here indicated that the present volume is submitted to an indulgent public. The author feels no overweening confidence that the work is worthy of the subject; yet he hopes to have contributed something toward a clarification of our knowledge. If the successive transformations through which the political consciousness of men has passed from early antiquity to modern times are rendered in any degree more intelligible, or even if any suggestion is given through which another pen may hereafter render them more intelligible, this volume will not have been issued in vain.

To aid in a fuller study of the subject than is possible from the condensed presentation in the text, references have been appended to each chapter covering the topics treated therein; and at the end of the volume has been placed an alphabetical list containing full information as to all the works referred to, together with many additional titles. This bibliographical apparatus is due chiefly to the

diligence of Mr. W. Maitland Abell, sometime University Fellow in Political Science at Columbia.

The chapters on Aristotle and Machiavelli have already been published, in much the same form as here, in the *Political Science Quarterly* and the *International Monthly* respectively. For valuable suggestions on various portions of the work in the manuscript the author is under great obligation to his colleagues, Professors Munroe Smith and James Harvey Robinson; and to Mr. Abell, for the untiring labour devoted to preparing the references and bibliography and to reading the proofs, he makes special and most grateful acknowledgment.

COLUMBIA UNIVERSITY,
December 26, 1901.

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INTRODUCTION

In every community of human beings there may be detected some form, however rude, of regulating authority, which determines in some degree, however slight, the relations of the members of the community with one another. The forms and functions of this authority are as diverse as the times and places in which these communities are found. The ancient Greek πόλις and the modern British Empire differ as widely in characteristics as in time; the Papuan tribe and the French nation more widely than in place. In times and places where no advance has been made out of the social conditions which are designated as barbarous, the exercise of and submission to this regulating authority are matters for the most part of physical force or unreasoning habit. With developing civilization, however, man seeks some explanation of the phenomena of authority that shall satisfy the rational spirit. The first results of this seeking are often ridiculous enough, in the judgment of more advanced reason, though not more so than the earliest results of investigation into the phenomena of the physical world. But whatever the results may be, whenever

and wherever any well-defined ideas are to be found in reference to the origin, nature and scope of the authority through which the relations of the members of the community to one another are determined, then and there is material for the history of political theories.

It is not, however, the purpose of this work to cover so wide a field as is here indicated. There is to be excluded, in the first place, the whole mass of primitive political theory, — that is, the ideas that are characteristic of primitive peoples. For this sweeping exclusion the limitations of space would be an adequate ground; but there are others at hand of a more scientific character. It is hardly too much to say that our knowledge of primitive political thought is as vague as it is vast. Recent research has enormously extended our acquaintance with primitive institutions, but the interpretation of those institutions tends to be rather advanced than primitive. What idea the early Teuton associated with his customs he has nowhere recorded; the political theory that passes for his is likely to be in reality that of Tacitus, lamenting the Roman Republic, or of Freeman, preaching the unity of history. That primitive politics lies so largely in the realm of conjecture and controversy is an ample justification for its exclusion from the work. But it is even possible to concede that primitive political theory is not political at all, but purely sociological. Of all

the multifarious projects for fixing the boundary which marks off political from the more general social science, that seems most satisfactory which bases the distinction on the existence of a political consciousness. Without stopping to inquire too curiously into the precise connotation of this term, it may safely be laid down that as a rule primitive communities do not and advanced communities do manifest the political consciousness. Hence, the opportunity to leave to sociology the entire field of primitive institutions, and to regard as truly political only those institutions and those theories which are closely associated with such manifestation. A history of political theories, then, would begin at the point at which the idea of the state, as distinct from the family and the clan, becomes a determining factor in the life of the community.

The appearance of the idea of the state implies a relatively high stage of intellectual development in any people, but it does not necessarily imply that reflection on political subjects has assumed the character of a science in the technical sense of that term. A history of political theories may properly include much that would be out of place in a history of political science. The title of this work has been chosen in view of this distinction. Many political doctrines of the utmost historical interest and value have had an origin and a career quite out of relation to any formal body of scientific dogma. To set rigid

barriers against the consideration of such doctrines would almost certainly result in a distortion of both history and philosophy. It would be to make Greek philosophy begin, rather than culminate, with Aristotle; to leave the Middle Ages almost a total blank; to pass Burke by with at most a simple allusion; and to ignore nearly all that has been wrought by one of the most thoroughly political communities known to history, namely, the people of the United States. Finally, it would give recognition to an idea that has produced much error and confusion in these latter days — the idea that formal political science is more a cause than a result of objective political history.

While the scope of the work thus is not to be identical with that of political science, it is also to be distinguished from that of political literature. As we shall often pass far beyond the limits of the one, we shall often be well within the limits of the other. The value and interest of a truly comprehensive history of the literature of politics are not to be doubted; but in the purpose of the present work exhaustiveness is not a controlling factor. We shall pass over with scant notice or in total silence much that may have the highest value from the standpoint of literary art, or of poetic fancy, or even of abstract logic. The criterion of selection will be a pretty definite and clearly discernible relationship between any given author's

work and the current of institutional development. The history of political theory, in other words, is to be kept always in touch with the history of political fact; and, with this purpose in view, it will be indispensable at times to depart entirely from the field of literature and to derive a notion of theory from an immediate interpretation of institutions.

In addition to the considerations just treated, an orientation of our subject requires some reference to the relation of political to other philosophy. A high degree of differentiation in the field of human knowledge is a characteristic mark of very advanced civilization. Among primitive peoples the ideas that later come to be designated as political are inextricably blended with conceptions known to us as legal, ethical, theological, ecclesiastical and even mathematical. The disentanglement of this confused mass and the isolation and definition of what is purely political is practically never fully accomplished. But progress is made in the work, and the history of political theory is in a large sense merely an account of the progress. Where for any reason progress in this direction ceases, the history of political theory ceases. Hence it is that the scope of the present work will be limited practically to the philosophy of the European Aryan peoples. The Oriental Aryans never freed their politics from the theological and metaphysical environment in which it is embedded to-day. The Semitic Jews and

Saracens at times achieved rather more, but their achievement was not permanent. The Turanian Chinese attained a strikingly advanced position in the evolution of ethical doctrine; but neither in theory nor in practice did they ever take the further and decisive step of discriminating between ethical and political conceptions. The Aryans of Europe have shown themselves to be the only peoples to whom the term "political" may be properly applied,[1] and it is to their theories that this history will substantially be confined.

From the fact that political philosophy in all ages has stood in such intimate relationship with other philosophy, it is inevitable that a historical treatment of the special should involve a good deal of attention to the general field. Particularly obstinate is the entanglement of politics with ethics and jurisprudence. A by no means insignificant proportion of the thought of political philosophers has been devoted to defining the interrelationship of the three, or to demonstrating that no distinction can be drawn between them. Ethical and juristic concepts, therefore, must figure largely in a history of political

[1] *Cf.* Burgess, *Political Science and Comparative Constitutional Law*, Vol. I, p. 30 *et seq.* Critics of the use of this term have assailed it as implying an arrogant assumption of superiority for our own race. The assaults are without foundation. Whether, from the standpoint of God, or nature, or the Unknowable, or abstract reason, "political peoples" are superior to other peoples, is not involved in the term; the only point is that a distinction may be perceived between the two classes of peoples.

concepts. Indeed, the special character of such a history will be pretty clearly determined by the importance which the particular writer attaches to the one or the other of the two related sciences. To him who looks upon the state as primarily an ethical entity, the development of political ideas will present one aspect; to him who looks upon the state as primarily jural, that development will present a distinctly different aspect. Possibly an ideal history would eliminate absolutely the idiosyncrasy of the writer; but a useful history can be produced on either of the lines suggested. At the present day the juristic conception of the state seems to be the most characteristic and the most useful. So far, then, as discrimination and selection are inevitable, the present history will prefer those lines of development in which political ideas appear as legal rather than as ethical.

A further limitation of the field of the work is made necessary by the extent to which differentiation has proceeded within the confines of distinctly political theory. Until within quite modern times, writers on politics included in their works a treatment of the topics that are included to-day under the heads of public law and political economy. But the whole group of special sciences which these names suggest — international law, constitutional law, administrative law, pure and applied economics, finance and statistics — have sloughed off and have

expanded until each has a history and a dogma quite too comprehensive for any but special treatment. Political theory proper still furnishes the heads of chapters for these special branches, and the reflex influence of the offshoots upon the main stem has been very considerable. Some general account of the movement of ideas in the special fields is, therefore, in some cases indispensable. As a rule, however, it will be necessary to leave the special just where it becomes clearly distinguishable from the general.

No history of political theories of just the character indicated in the foregoing sections has ever been published, — at least in the languages of Western Europe. The nearest approach to it is Janet's elaborate and most admirable work, the *Histoire de la Science Politique dans ses Rapports à la Morale* (second edition, Paris, 1887). Despite the form of the title, Janet includes much more than what is strictly the "science" of politics in his survey, and thus makes his field include all political theories. But, on the other hand, he avowedly exhibits political theory in its relation to ethical doctrine; and while the breadth of his scholarship, the depth of his philosophy and the charm of his style are all brilliantly exhibited in the parts of the work that deal with politics, it is no disparagement of his magnificent creation to say that the treatment of ethical theories is the overshadowing feature of the

work and gives to it the special quality which it is the purpose of the present treatise to avoid.

In German literature the lack of a history of political theories is surprising, in view of the enormous activity of scholars during the last century in all phases of historical research. Some approach to the vacant field is made by Robert von Mohl's *Geschichte und Literatur der Staatswissenschaften* (Erlangen, 1855); but this is little more than a classified bibliography of politics, useful, indeed, but very far from any pretensions to the character of a connected history. Much nearer to the sort of work under consideration is Karl Hildenbrand's *Geschichte und System der Rechts- und Staatsphilosophie* (Leipzig, 1860). The point of view adopted recognizes the importance of objective history in determining the lines of political theory, and both the title and the text of the work suggest the intimate relationship and interdependence of juristic and purely political philosophy. If the author had completed his work, it might have occupied a place in German literature analogous to that of Janet's in the French; but only a single volume was ever published, and that brought the history only to the close of classical antiquity. J. K. Bluntschli's prolific pen made some contribution to the history of political theory in his *Geschichte der neueren Staatswissenschaft* (third edition, 1881). This is a solid, respectable piece of work, but it deals only with the

period since the thirteenth century, and it is devoted primarily to an account of the systematic philosophy of Germany.

In English the first and only attempt at a history of political theory is to be found in the two volumes of Robert Blakey, *The History of Political Literature from the Earliest Times* (London, 1855). Though the title of the work indicates that the author's concern is with literature alone, his plan as described in the Introduction would give full weight to the influence of institutions on political science. Moreover, he includes under the term "political literature" the public documents and all the records of governmental action. If his execution were at all comparable with his plan, his work would be of great value. But the two volumes that were published, coming down to 1700 A.D., are crude, scrappy and superficial, and abound in errors of simple fact. The promise of a scholarly and adequate treatment of the subject is embodied in Sir Frederick Pollock's *Introduction to the History of the Science of Politics* (Macmillan, 1890); but this slight sketch is only a promise, and the preoccupation of the talented author with the special field of jurisprudence seems to have definitively extinguished by this time all hope of fulfilment.

As compared with the works just referred to, the present history is intended to be more comprehensive than those of Pollock, Bluntschli and Hilden-

brand, and more systematic and accurate than that of Blakey; to avoid the bibliographical character of Mohl's three volumes; and, with the utmost admiration and respect for Janet's interpretation of political theory in its relation to ethical theory, to present rather an interpretation of the development of political theory in its relation to political fact.

POLITICAL THEORIES

CHAPTER I

INSTITUTIONAL BASIS OF GREEK THEORY

1. *The Hellenic Peoples in General*

A HISTORY of political theories of the scope defined above must begin with the thought of that brilliant aggregation of Mediterranean peoples whose astonishing development in intellectual culture, twenty-three centuries in the past, is still the wonder and despair of civilized man. Probably in no field save that of art are Greek ideals more highly appreciated at the present day than in political theory. This is in some measure due to the wide prevalence of democratic thought and feeling; but more decisive is the fact that the great thinkers of Hellas explored the entire height and depth of human political capacity and outlined the principles which at all times and in all circumstances must determine the general features of political life. With all its universality, however, Hellenic thought, like that of every other age and people, was determined primarily by the institutions amid which it developed. The only path of approach to an accurate apprehension of political philosophy is through

political history. Our attention must, therefore, first be devoted to the salient facts in the growth of Greek constitutions.

The opening of authentic history, about 700 B.C., reveals the Hellenic world as a group of little communities scattered about among the hills and valleys of the peninsula which they afterward made so famous, and on the adjacent coasts and islands. Politically each community was isolated and independent; but the tradition of a common origin pervaded them all and was the basis of various social and religious institutions. In the peninsula itself some tendency was indicated toward the creation of larger political aggregates through the voluntary coalescence of neighbouring communities or through the forcible absorption of the weaker by the stronger. On the other hand, the practice of colonization in distant places both reduced the absorptive power of the mother city, and, through the autonomy of the colony, confirmed the influence of the characteristic type. The πόλις, or city-state, already fixed the lines within which the theory and practice of Hellenic politics were always to move.

In the period now under consideration no single form of government was universal throughout the various communities. But in practically all the more progressive and powerful states, save Sparta, some species of aristocracy or oligarchy prevailed. The patriarchal kingship, which must have been characteristic of the times depicted by Homer, had disappeared, and supreme authority was vested in

a relatively small number of privileged persons, whose distinction was based on social or religious tradition. The power wielded by these aristocracies was by no means purely political. The communities themselves were still permeated by the ideas of family and clan relationship, and the aristocratic government expressed merely the recognition of general preëminence to certain families and clans. The heads of these social organizations constituted the body which regulated the whole social, economic, religious and political life of the community. This aristocratic type was characteristic of the Hellenic world during the seventh century B.C.

In the succeeding century the process of social evolution resulted in the general prevalence of another governmental type: aristocratic government was succeeded by tyrannic. Two causes figured largely in this transformation. On the one hand the growth and prosperity of the cities, the expansion of their commerce, and the general intellectual development introduced elements into social thought and structure which tended steadily to undermine the moral foundations of the old system. On the other hand, the degeneracy and dissension that were manifested in the aristocracy itself gave frequent opportunity for an able and ambitious man to take the power into his individual control. Practically every important city of the Hellenic world (Sparta again being a notable exception) passed under the sway of a tyrant. Monarchy thus became again the prevailing type of govern-

ment; unlike the Homeric king, however, the tyrant had in most cases no support whatever in social tradition or religious sentiment, but rested his authority on force pure and simple. The very fact of tyrannic power, therefore, must have had much influence in promoting the rationalization of political thought — in removing political reflection from its ancient channel to that which was marked out by the primary consideration, not of the right of the governor, but of the welfare of the governed.

The violence and cruelty which characterized the rule of the tyrant were at first displayed chiefly toward the aristocracy — the supplanted ruling class. In time, however, the whole subject population felt the full force of his arbitrary sway. The many and the few were brought by common suffering to combine for the common relief. One by one the tyrants were expelled from Hellas and a new page was unrolled in Greek political experience. The new era presented, however, no such uniformity as that of the preceding periods. No single type of government attained general recognition; but instead there developed that conflict between democracy and oligarchy which persisted until the distinctive political character of Hellas disappeared. The coalition of aristocracy and populace that overthrew the tyrants vanished at once before the problem of providing an organization to take the place of that which was destroyed. To the aristocrats it seemed obvious that the ancient power of the privileged classes must be restored. But the age of the tyrants had been an

age of enormous advance in material prosperity and intellectual culture, and the pretensions of the old aristocracy, none too favourably regarded when the tyrant came, were violently resisted when he disappeared. The perturbations of the Persian wars gave new wrenches and strains to all the old ideals, and from the general unsettlement arose that democratic wave which threatened to ingulf all Hellas. Conservatism rallied, however, and resisted the shock, and under the leadership of Sparta maintained some hold on power till the coming of the Macedonian. It was in the midst of the widespread conflict between aristocracy and democracy that the most brilliant contributions of Greek thought to political theory began to appear.

While the internal politics of each of the city-states had made familiar the facts of aristocracy, tyranny, oligarchy and democracy, the relations of the states with one another had evoked the conception of a Hellenic national unity. From the earliest times community of language, of oracles and of religious worship had served to mark off the Hellenes from the outer world which they called barbarian, and to impress upon their consciousness the idea of race unity. But only under pressure of danger from the Persian power did this consciousness express itself in institutions of a political character. First to Sparta and then to Athens was assigned by general consent of the threatened states a "hegemony," or ill-defined leadership in the operations against the enemy. Each of the leading states in turn sought

to expand its military hegemony into an imperial dominion, but neither attained more than a temporary and limited success. Political unity through federation might have been achieved if the two strongest states could have coöperated harmoniously; but socially and intellectually Athens and Sparta had nothing in common, and politically they embodied the opposite extremes of democratic and aristocratic tendency. Hence the rivalry which wrecked Hellas in the Peloponnesian War. The idea of political unity, however, by no means disappeared. It played a part in the general movement of Hellenic politics throughout the supremacy of Sparta and of Thebes (404–362 B.C.), and furnished in some sense a theoretical basis for the absorption of the Greek states by Macedon. That the idea received no recognition in the political science of the day is largely due to the fact that in every case in which the idea had been to any extent realized, brute force had been conspicuously the determining factor in the result; and philosophy had not yet reached the stage where it could calmly analyze the workings of brute force.

2. *The Constitution of Sparta*

The institutions which most influenced Greek political theory include not only those involved in the widespread movements sketched above, but also many that were peculiar to individual states. Particularly important in this respect are the two systems which embodied the constitutions of Sparta and Athens. Some special consideration of the organization and

development of these two representative states is indispensable to a comprehension of Greek philosophy.

In Sparta the first fact to be noticed is the social basis of the state. Here we find a rigid classification of the people that remained substantially the same from the earliest to the latest period of her history. The population of Spartan territory fell into three classes — Spartans, Perioikoi and Helots. The last named were the most numerous, but their position was at the bottom of the social structure. They were the peasant serfs whose manual labour, almost exclusively agricultural, supplied the subsistence of the whole population. In rights, either civil or political, they had no share; their condition was that of abject slavery, from the burden of which the only relief seems to have come through their employment at times as light-armed troops in the army. The class called Perioikoi constituted in a sense the middle class of the population. They enjoyed full civil rights and apparently a degree of local self-government. Engaged to some extent in agriculture, they conducted practically all the operations of industry and commerce. But in the political life of the state, in its general sense, they had no share whatever.

The political people of Sparta was to be found exclusively in the first named of the three classes — the Spartans proper. This class, representing historically the small band of Dorians who conquered a home for themselves in the Peloponnesus in prehistoric times, was numerically an almost insignificant element of the population; but it never lost the

absolute control which it originally assumed over all the affairs of public life. The Spartan, indeed, had no occupation but the training for and performance of public duties. His support was drawn from the land which the Helots cultivated; trade and commerce were absolutely prohibited to him; and all that remained was the military and political career. The institutions attributed to Lycurgus provided a round of duty which determined the daily life of the Spartan down to very minute details; and the observance of the Lycurgean rules gave to the class the character of a military brotherhood whose sole function was dominion. At seven years of age the children were removed from parental care and taken in charge by the officials of the state. By a severe and engrossing system of gymnastic training, they were brought to the highest attainable perfection in physical development. For the boys the training gradually took on a purely military character, so that by the age of manhood they were expert in all the duties of a soldier; for the girls the goal kept in view was the capacity to bring forth hardy offspring. Till the maturity of his physical life was passed the Spartan was chiefly occupied with military affairs; in his declining years he assumed the duties of the magistracy, and shared in counsel and administration. A variety of institutions insured the maintenance of the character which this system impressed upon the community. Most famous was the public mess. Every adult male Spartan was obliged to take his meals with his fellows at a public dining hall, under

the supervision of the magistrates. The diet prescribed left no room for the insidious influence of inequality and luxury. A similar purpose was manifest in the discouragement of family life in every form, in the prohibition of the pursuit of trade or agriculture, and in the restriction of intercourse with foreigners to the narrowest possible limits. Finally, an express provision of the Lycurgean discipline forbade written laws, and declared conclusive in every controversy the judgment of the magistrate. Litigation thus, like other luxuries that played so large a part in Athenian life, never gained a foothold in the economy of Sparta.

The enormous influence exerted by the Spartan constitution on Greek thought is due more to the peculiar system just sketched, which marked off the Spartans as a class in the population, than to the organization through which this class performed its political functions. Some notice of this organization is, however, necessary. At the nominal apex of the system stood the kings, two in number, precisely equal in dignity and authority; next came a senate of twenty-eight members, elected for life; third, an assembly consisting of the whole body of Spartans; and, finally, the ephors, an annually elected board of five members. At the time with which we are particularly concerned the functions of these different organs were somewhat as follows. The kings held the highest official positions in the military and in the religious system; their actual authority, however, was not great. The senate performed a variety of

administrative functions, mostly of a judicial character. The assembly had practically no significance, meeting only on very rare occasions to register its approval of some especially important project. In the ephorate, on the other hand, was to be found the real centre of the system. This institution seems to have had its origin in a desire to set up a check on the authority of the kings and senate, at the time when the assembly ceased to be efficient for this purpose. By a process of gradual encroachment, the ephors displaced all the other organs in the final determination of administrative and general policy. Even the actual direction of the army in the field was at times taken from the kings, though as a rule the military authority was left intact with royalty.

The aristocratic character of the Spartan state was primarily expressed in the exclusion of the two largest classes of the population from political life. From the standpoint of the governing class alone, the actual system might appear democratic; for the ephors were the annually elected representatives of the people. In fact, however, but a small part of the Spartans themselves, in historic times, participated in political life. For, despite the design of the Lycurgean legislator to secure both equality and fraternity in his system, the former feature, if it ever existed, very early disappeared. The public tables were supported by the contributions of the Spartans from the produce of their lands. Failure to contribute entailed, not a forfeiture of the right or duty of eating at the common mess, but the loss of all right to participate in

the government. A progressive decrease in the number of landowners in Sparta characterized the whole of her authentic history, with the consequence that the governing class correspondingly narrowed. It was this class which was represented in the ephorate — a fact which sufficiently explains the opinion of the Greeks themselves that the Spartan state, while in form partly royal and partly democratic, was in essence intensely oligarchic.

3. *The Constitution of Athens*

The Athenian state presented in every respect the sharpest contrast to the Spartan. Historically, the constitution passed through all the various stages which characterized the general development of Hellenic politics, and at last it became both in form and in essence intensely democratic. The social basis of the state lay primarily in the distinction between slaves and freemen, and secondarily in the division of the latter into nobles (εὐπατρίδαι) and commons. The servile class had not, however, as at Sparta, the character of a conquered population depressed into serfage; nor was there, between nobles and commons, any such traditional distinction of race as between Spartans and Perioikoi. Further, in the fulness of maritime and commercial prosperity, a large resident alien element (μέτοικοι), which had no counterpart whatever in Sparta, became more or less identified with the social and economic life of Athens. Politically, however, Athenian institutions involved only the nobility and commons, who to-

gether constituted the citizen-body of the state. Democratization was complete when all members of these two classes stood on an equality so far as participation in political power was concerned.

The dawn of authentic history reveals all authority of a political character in the hands of the small privileged class of Eupatridæ, or nobles.[1] The principal organs through which this authority was exercised consisted of nine annually elected officers, later known collectively as archons, and a council or senate which took its familiar name from the place of its meeting, the Areopagus. About the end of the seventh century B.C., serious disturbances, due chiefly to ill feeling between the wealthy nobles and the poorer commons, resulted in the reforms associated with the name of Solon. The essence of the new system lay in the substitution of wealth for birth as the basis for participation in political power. The monopoly of the Eupatridæ was broken, but the commons were admitted to power only in proportion to their property. A fourfold classification of the whole people according to income served to determine eligibility to office; the highest positions, such as that of archon, being open only to the first class, and no office at all being attainable by the fourth class. In the existing distribution of wealth, this insured to the nobles still a predominating influence in

[1] The precise basis on which this class rested is unknown; perhaps there was nothing precise about it. Grote describes the class as "seemingly a few specially respected gentes, and perhaps a few distinguished families of all the gentes." — *History of Greece*, Pt. II, ch. xi.

administration. But the germ of democracy lay in two new governmental organs which appeared in the Solonian system, the ekklesia, or general assembly of the people,[1] and the Senate of the Four Hundred. The assembly, which included without discrimination all classes of the free citizens, elected the archons, approved or disapproved the official conduct of all magistrates, and exercised a general political and judicial authority. Its activity was regulated, however, by the Senate of the Four Hundred, or "preconsidering senate." This was an elected body[2] which determined when meetings of the assembly should be called and what matters should be brought before it, and further exercised a wide administrative authority in seeing that the decrees of the assembly were executed. The powers attributed to these two new organs limited *pro tanto* the importance of the senate of the Areopagus. This body, being recruited by the entrance each year of the retiring archons, remained the stronghold of the old governing class, and continued to exercise judicial functions that gave it a powerful influence in the state.

From 560 to 510 B.C., constitutional life at Athens was in a sense suspended by the tyranny of Pisistratus and his sons. Yet the forms of the Solonian system were for the most part preserved, subject to the overruling will of the tyrant. Upon the final

[1] The ekklesia had probably had a nominal existence before; it became important for the first time through Solon.

[2] Probably only the highest class of citizens were eligible.

expulsion of the Pisistratidæ a sharp democratic impulse was given to the constitution by the legislation of Kleisthenes, and within the next century, principally through the influence of Pericles, the progress was steady to the complete realization of democracy. In its final shape the system presented the following features. At the centre lay the assembly — the general body of citizens, paid for attendance at its meetings. It was the supreme political organ of the state, and spoke the final word in all matters that it chose to consider. The function of the assembly, however, was regarded as primarily executive rather than legislative. Its acts were decrees (*ψηφίσματα*), not laws (*νόμοι*), and were theoretically always subordinate to the vaguely defined body of ancient custom to which the term *νόμοι* applied. In fact, the assembly was its own final interpreter of the *νόμοι*, and accordingly the latter *per se* imposed no check upon the popular will. Practically, however, there existed certain restraints upon the assembly. Every proposition which was recognized as affecting the *νόμοι* was subject to a special procedure of a judicial character, involving its consideration by a board known as the nomothetæ. But more effective than this as a conservative force was the indictment for violation of the laws (*γραφὴ παρανομῶν*). The mover of any proposition before the assembly was subject to indictment and trial, at any time within a year, for illegal action. This imposed a serious and definite responsibility upon every individual who sought to influence the assembly. It enabled the people, after violating the *νόμοι* in a fit of

passion, to atone for its lapse by punishing the mover of the act which it had approved.[1]

The detailed administration of the government in civil affairs was practically in the hands of the Senate of the Five Hundred — the Solonian preconsidering senate as reorganized by Kleisthenes. The body was chosen by lot from the general body of citizens, and its members alternated by lot from day to day in presiding over the conduct of public business. Through their function of preparing the agenda of the assembly they acted in some measure as a check upon its action. In military and diplomatic affairs the state was represented by the generals (*στρατηγοί*), a board of ten elected by the people in their ten administrative divisions called tribes (*φυλαί*). These were the only officials of importance that were chosen by election, rather than by lot, in the Athenian democracy.

The judicial authority of the state — by no means so narrowly marked off from the domain of politics and administration as in modern times — was exercised through popular courts, called dikasteries (*δικαστήρια*). Five thousand citizens, drawn by lot from the general body, were divided into ten panels, among which all important judicial business was distributed. Every juror received pay for his services. As the assembly had absorbed practically all the political

[1] The trial of prosecutions under the *γραφὴ παρανομῶν* was held in the dikasteries, whose composition, as described below, together with the procedure that characterized them, insured a pretty faithful reflection, in their judgments, of the varying phases of popular sentiment.

functions of the archons and the Senate of the Areopagus, so the administrative powers of these ancient organs had all gone to the Senate of the Five Hundred, and their judicial authority to the dikasteries. The archons, indeed, now chosen by lot from the general body of citizens, had become mere presiding officers of the popular courts, with some petty police-court jurisdiction of their own; and the Areopagus existed merely as a court for the trial of homicide.

In general, the Athenian constitution, in its final form, opened to every citizen an equal opportunity to share in every species of political authority. With reference to all who could claim Athenian citizenship, therefore, democracy was complete. With reference to the total population, however, the existence of a slave and alien element that vastly outnumbered the citizens, rendered the designation democracy, in the modern sense, quite inapplicable.

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CHAPTER II

THE POLITICAL PHILOSOPHY OF PLATO

1. *The Precursors of Plato*

It was only when the institutional development sketched in the preceding chapter had run its full course, that a coherent and comprehensive form was given to political speculation. Plato and Aristotle analyzed and classified the principles and organs of a state life that had passed its prime and was rapidly waning. The characteristic features of this life were determined by influences and motives in which rational generalizations and ideals had little part, and when systematic reflection began, the result was rather explication of the past than anticipation of the future.

The various phases of early social and political thought find some illustration in the literary remains of Hellas. The Homeric epos could have taken shape only in a patriarchal régime, based on religious myth. Kings appear always as Zeus-born (διογενεῖς) and Zeus-nurtured (διοτρεφεῖς), and rule as shepherds of the people (ποιμένες λαῶν). Some significance is attached to the lesser chiefs, who likewise claim divine ancestry, but for the common people Homer shows only a general contempt. In

Hesiod there may be detected a change of attitude, or at least a different point of view. More stress is laid on the duties than on the rights of kings, and they are judged with reference to the justice rather than the success of their acts. A similar strain appears in the sayings attributed to the Seven Sages and in the fragments of the Gnomic poets. There is a tendency to measure kings by the same standard as other men, and thus to weaken the supports of royalty. From this it is clear that an ethical consciousness developed during the period of transition from the monarchic to the aristocratic and tyrannic types of government, acting as both cause and effect of the political movement.

That strenuous century which began with the Persian and ended with the Peloponnesian War brought the Hellenic world face to face with every kind of practical problem in statecraft, on a scale beyond anything that had preceded. The close contact with the Persian despotism, the rise and decline of the Athenian Empire, the antithesis and death-grapple of Spartan oligarchy and Athenian democracy, brought into the range of everyday experience the gravest questions of political practice, and correspondingly stimulated political reflection. Not only in this particular field, however, but in every department of intellectual life there was the greatest activity. Literary and plastic art achieved the triumphs which have rendered the age of Pericles famous for all time, and general philosophy began under the guidance of the Sophists and Socrates to take the path

which led straight to the immortal work of Plato and Aristotle. The ethical consciousness which had been awakened during the preceding centuries found scope now for the fullest development, especially in the administration of democratic government. As in every other age of what may be called aggressive enlightenment, the general religious faith of the Greek world was tending to disappear at this time, and the peoples entered upon the realization of popular supremacy without a sure support in even that somewhat inadequate moral doctrine which the old myth-ridden theology had embodied. Questions of right and wrong in political practice imperatively demanded a rational solution; and it was in offering some sort of satisfaction to this demand that the Sophists came into prominence.

The work of the group of men commonly designated by this term requires no special analysis in this place. After bearing for twenty-two centuries the obloquy of the civilized world, due chiefly to the *odium philosophicum* which Plato manifested toward them, they at last received a measure of just recognition through the insight of Hegel[1] and Grote.[2] The function of the Sophists was primarily educational. They supplied the demand for instruction in all that would fit a young man for a successful career in the practical life of a citizen. Such a career, in the conditions then existing, could be achieved only

[1] *Geschichte der Philosophie*, in his Works (Berlin, 1840), Vol. XIV, p. 5 *et seq.*

[2] *History of Greece*, Pt. II, ch. 67.

through the exercise of political functions; for industry, commerce and agriculture were not recognized as worthy pursuits for the citizen. The teaching of the Sophists, therefore, centred about those branches which were most essential in public life, especially rhetoric and oratory. From a modern standpoint the education which they gave tended to be technical rather than liberal; they emphasized rather the practical methods of pushing a policy to success than the philosophic basis on which the choice of policy should rest. It was at this point that Socrates, himself a public teacher, not distinguishable to the masses from the rest of his class, took issue with his fellows and laid the foundations of a moral science which should include within it the whole of political science. Plato, the pupil of Socrates, represented the rest of the teaching body of the day as tending to set up pleasure and pain as ultimate moral standards, and might as the criterion of political right. That such doctrine was current at the time seems beyond dispute, but that it was held by the Sophists as a class is more than doubtful. Against the doctrine in all its phases a vigorous protest was expressed in that career which makes Socrates so conspicuous a figure in the history of enlightenment.

It is only indirectly that Socrates claims attention in connection with political theory. His most characteristic work was in the capacity, first, of inventor of a scientific method, and second, of founder of an ethical system. The method which he introduced was that of doubt and definition. In the exuber-

ance of intellectual growth that attended the triumph of democracy at Athens there was a fair field for the criticism of so cynical a mind as that of Socrates. With the frost of his tantalizing irony, he nipped many a promising blossom of political omniscience. He insisted that every claimant to the possession of knowledge should define with precision the nature of his treasure. Definition is notoriously the most difficult task of the trained thinker; the demand for it from the ordinary or the immature mind, or even from the superior and cultivated mind suddenly and with premeditated craft, could have only the ludicrous results in which Socrates found such delight. But the influence of his method in the stimulation of close thinking and exact reasoning needs no better illustration than the works of his disciples.

The ethical system of which Socrates laid the foundation is embodied for the most part in the doctrine that virtue is identical with knowledge, vice with ignorance. A proper appreciation of this doctrine requires that it be taken in close connection with the theory of knowledge which his method implied. If by one who "knows" we understand one whose knowledge is of that thorough and ultimate kind that will satisfy the demands for exact definition, then the dictum that nobody who knows the right will do the wrong is not so hopelessly absurd as might at first sight appear. Accordingly, to Socrates, the just man is he who knows what is just. From this point of view he formulated a doctrine which expressed his idea as to the relation of politics

to ethics.[1] Specifically, the knowledge which was identical with justice he laid down to be a knowledge of the laws. But laws he proceeded to define as including the two species — written, or the laws of the state, and unwritten, or the will of the gods. The former he held to be of limited and local obligation; the latter to be of universal binding force, and hence to take precedence of all others. Xenophon's record of the conversation in which Socrates lays down this doctrine is the first appearance in extant literature of a theme which has been a staple of scientific controversy in every succeeding age — the relation, namely, of political to divinely sanctioned moral obligation. In both his life and his death the great Athenian illustrated a steadfast conviction that what he conceived to be the will of the gods must guide his actions in preference to the undoubted will of the Athenian state.

Beyond what has just been mentioned, the work of Socrates did not enter into the field of political theory. The general principles which he laid down became, however, the guiding lines of his disciple Plato, in whose system both moral and political philosophy received elaborate treatment.

2. *General Character of Plato's Thought*

An accurate description of Plato's political theories in a reasonable compass is for various reasons a task of much difficulty. His treatment of politics is in a large measure incidental to other topics, and takes

[1] Xenophon, *Memorabilia*, IV, 4.

on a different character with each variation in the point of view. As a path-breaker in systematic ethics and metaphysics he frequently employs political doctrine merely as a resource in surmounting the obstacles which he meets, with scant attention to the coherency of the doctrine. The progressive modification of his ideas with the advance of age is also clearly discernible in his works; so that the chronology of his productions must be considered in an account of his views. And finally, the peculiar character of Plato's genius impressed upon his philosophy a poetic vagueness which makes the comprehension of it more a matter of feeling than of cold reasoning. Especially is this true of his most famous work, *The Republic*. All his philosophy is represented here, but the treatise is, after all, essentially a romance, embellished with a series of brilliant but not carefully correlated essays on morals and metaphysics.

The most satisfactory approach to his political thought is through his relation to the work of Socrates. The latter, as has been stated, founded, first, a theory of knowledge and a method for all science, and, second, a system of ethical doctrine. Plato expanded the first into a far-reaching metaphysics, and developed the other into a comprehensive ethics. Definition, which the Socratic irony had demanded as the starting-point of all real knowledge, was itself defined by Plato. It was shown to involve the rejection of the transient and accidental in any phenomenon, and the determination of the permanent and essential. Real knowledge, therefore, was attainable

only through a process of abstraction which should leave that residuum of qualities which has later been named the general notion. The discovery of the general notion was an achievement of the first importance in the history of the human intellect, and Plato's exuberant fancy ran riot among the possibilities inherent in his advance. Not things as they presented themselves to common observation, but things as embodied in their abstract ideas, were the subject-matter of real knowledge — of philosophy in its true sense. Not this, that or the other horse, but horse in general, or the idea of horse, was the real horse and the subject of equine science; and, piling abstraction on abstraction, not this, that or the other policy, but policy in general, was real policy and the subject of political science. This idealism, which by the linguistic vagary of a later age is both identical with and at the remotest extreme from, realism, pervades the whole of Plato's thinking on politics, but determines in a particular way the character of his dialogue on *The Statesman*, and of some parts of *The Republic*.

In the development of Socrates's ethical doctrine Plato made equal progress beyond the point reached by his master. He was faithful to the dogma that virtue was identical with knowledge; but his theory of knowledge gave a much better support to the doctrine than it originally possessed. Real virtue was only the ultimate "idea" of virtue, and real knowledge was only the perception of this idea. Hence good in its true sense could only be predi-

cated of one who had attained this absolute and abstract knowledge. The Socratic dogma, accordingly, assumed substantially this form, that the all-wise philosopher alone could attain to virtue. But Plato was too faithful to the practical purpose of his master's teaching to be satisfied with so barren a moral doctrine as this. Human conduct required some less forbidding guidance than exhortation to the attainment of the unattainable. Hence Plato worked out a scheme of practical and particular virtues for the actualities of life. He based this system on a psychology which embodied a threefold analysis of the human soul into the rational, the spirited (*θυμός*) and the sensual or appetitive faculties. From the interrelationship of these elements he drew his definition of the particular virtues. Courage was the subordination of the spirited to the rational faculty; temperance (*σωφροσύνη*), the subjection of the appetitive to the rational. And justice was described (one can hardly say defined[1]) as the regulative virtue which produces a general harmony in character and general good order in conduct. The just man, he says, is like a well-ordered city; the unjust, like anarchy. These three particular virtues were presented with profound and fascinating art by Plato, but he never lost sight of his fundamental principle, that they were rooted in "opinion" (*δόξα*), that partial, fluctuating knowledge which even common men possess, while the one supreme virtue, wisdom in its absolute sense (*σοφία*), was immanent

[1] See *Republic*, IV, 443.

only in the complete and permanent "science" (ἐπιστήμη) to which the philosopher attained. The abstract ideal of the good, as determining fixed and immutable canons of morality, was the standpoint from which he assailed the utilitarian ethical and political doctrines which he ascribed to the Sophists. In his view right and justice remained always the same; the demands of a narrow and temporary expediency could never change them — could never convert them into injustice and wrong.

In the expansion of the Socratic metaphysics and ethics is inseparably infolded Plato's political theory. His thought on politics, profound and brilliant as it often was, never assumed the independent and systematic form of a science. Three dialogues contain substantially all his political ideas, *The Statesman*, *The Republic*, and *The Laws*. Of these the first is primarily an exercise in dialectic, and the second is mainly a treatise on ethics, individual and social. Only the third sets out with a deliberate purpose of dealing with political subjects, and in this, the work of his old age, the writer proceeds steadily within the lines which the matured habit of a long life has made indispensable. In all three of the works, however, there is much that is most valuable and suggestive from both the historical and the scientific point of view.

3. *The Republic*

The Republic is in every respect Plato's greatest work. Both the substance of his thought and

the form in which it is expressed have fascinated all succeeding generations and have stimulated endless imitation. The familiar name of the dialogue, however, gives a somewhat erroneous idea of its true character.[1] The ideal state, whose outlines are so boldly and beautifully set forth as often to monopolize the attention of the reader, is avowedly a mere incident in the main theme of the dialogue. Plato proceeds to formulate the conception of a state in which justice prevails, in order to discover by analogy the philosophic idea of justice in the individual man.[2] This method expresses in itself the two dominant characteristics of the writer's political philosophy — its idealism and its subordination to ethical science.

The first cause of the state Plato finds in the diversity of men's desires and the necessity of mutual assistance in satisfying them.[3] A community arising from this cause must embrace three classes of people: producers of sustenance, to supply the physical wants of the population; warriors, to protect the labourers and insure a sufficient territory for the purposes of the state; and finally, counsellors and magistrates, to regulate the general welfare of the community. These three classes, working in proper correlation, will insure the maximum of well-being throughout the state. Every member of the community must be assigned to the class for which he proves himself

[1] The alternative title, *On Justice*, is more expressive of the contents. This title, however, was not known to Aristotle. *Cf.* Jowett, *The Dialogues of Plato*, III, vi.

[2] *Rep.* II, 368.

[3] *Ibid.* 369.

best fitted. Thus a perfect harmony and unity will characterize both the state and every person in it.[1]

In laying down this social and economic basis for his republic the philosopher manifests a high appreciation of the principle of specialization and division of labour which has received such marked attention in recent days. His assignment of political functions has hardly so modern a tone. To the third of the classes mentioned above, the guardians (φύλακες), as he calls them, consisting of the oldest and wisest of the community, he ascribes untrammelled discretion in the ordering of the state's affairs. This class, on whose character and attributes Plato dwells with the most particular interest,[2] is the ultimate product of the long course of training in which the life of a citizen must be passed. Only those who have proved themselves perfect in true knowledge may enter the class, and the judgment of the guardians themselves is conclusive as to the qualification. To the members of this close corporation is assigned a manner of life which is conceived to be appropriate to their exalted character. They have no individual family or property interests; they live in public, eat at common tables and sleep in tents. With the support of their physical existence reduced to the absolute minimum of concern to them, they are enabled to cultivate philosophy and rise to those heights of

[1] " . . . so each may become not many men, but one, and the city may be not many, but one." — *Rep.* III, 424.

[2] The warriors are described almost exclusively with reference to the selection of guardians from among them, and the labouring class receives practically no attention at all after the first brief definition.

omniscience which afford an unerring insight into all human affairs. Hence their fitness to guide the state without other rule than the true wisdom in which they share.

Upon the relation of this picture of an ideal community to Plato's ethical discussion it is unnecessary here to dwell. In brief, the allegory is simply this: The three classes of the people symbolize the three faculties of the soul, — appetitive, spirited and rational, — and the just man, like the ideal state, is found where the first two are in proper subordination to the third.[1] On the political side proper the ideas which he brings out in highest relief are, first, the necessity of an organic unity in social life; second, the importance of systematic education, as contrasted with haphazard legislation, in regulating the common interest; and third, the rational basis of aristocracy in government.

The ideal unity of a state Plato explains in his celebrated discussion of communism.[2] As private property and family relationships appear to be the chief sources of dissension in every community, neither is to have recognition in the perfect state. Unity and harmony require that no individual should differ from any other in the feeling of pleasure or pain in respect to any third person or any object whatever. All must "rejoice and grieve alike at the same gains and the same losses"; "the words 'mine' and 'thine' must be pronounced by all simultaneously."[3] Private property, therefore, can have

[1] *Rep.* IV, 427 *et seq.* [2] *Ibid.* Bk. V. [3] *Ibid.* V, 462.

no existence in the ideal state, and, further, Plato works out an ingenious scheme through which children shall not know their own parents, or parents their own children. The discord-making devotion of fathers, and especially of mothers, to their own offspring is thus precluded at the outset. Indeed, the relations of the sexes in general are to be wholly severed from the influence of individual emotion, and are to be subject to the absolute control of the magistrates. Men and women are to be mated with sole reference to a harmonious balance of qualities in the young; and the elements of perfect character thus insured at birth are to be developed to maturity by a system of uniform public education.

In education Plato sees the only true way to the permanent stability of the state. The hope of moulding the citizens to the system of the community by legislation must always be futile. If the character of the people is sound, laws are unnecessary; if unsound, laws are useless. Character can be fixed only by a training that begins with the earliest years and proceeds on lines suitable to the maturing of the mind until the climax of life. In the ideal state the function of the magistrates is practically limited to the conduct of such a training.[1] Physical and mental culture receive equal attention in the earlier years. After the age of twenty the latter gradually assumes the chief place, and after thirty those individuals who have shown the most

[1] Education is treated in Bk. VII of *The Republic*.

capacity confine themselves to the pursuit of dialectic — the ultimate science. As the developments of this training enable the magistrates to determine the peculiar capacity of the novices, the latter are assigned to the respective classes for which they are found to be fitted. The residuum of exalted minds who are adapted to philosophy in its highest sense enter at fifty into the class of magistrates and assume their part in administration. Premising the unerring wisdom of those who have attained to true knowledge, the relations between the individual and society are so determined by this system as to preclude any of the discord that inheres in the ordinary political life.

It appears from the whole tenor of the discussion in *The Republic* that the Platonic ideal of government is aristocratic. The particular form of aristocracy — that of intellect — is determined largely by the philosopher's preoccupation with his philosophical theories. The real state exists only in the abstract idea of the state; and hence the real rulers are only those who possess the knowledge of this idea. In the presence of this conception, the democratic idea of government by the uninstructed masses, as well as the monarchic notion of government by the uninstructed one, had no room for existence. But Plato had more than a mere theoretical basis for his dislike of democracy. The Athenians, in the full tide of democracy, had put Socrates to death — a man in whom Plato, like all his other disciples, could find no guile. This act must have contributed powerfully

to confirm the conclusions of his philosophy — that authority was only justifiable when based on the broadest culture.

> Unless it shall come to pass that philosophers are kings, or that those who are now called kings and potentates be imbued with a sufficient measure of genuine philosophy — that is to say, unless political power and philosophy be united, . . . there will be no cessation of ills for states, nor yet, I believe, for the human race; neither can the commonwealth, which we have now sketched in theory, ever till then see the light of day.[1]

The relation of existing polities to his ideal is indicated by Plato in a fanciful account of the process through which the various types have originated.[2] The process is one of progressive degeneration from the perfect aristocracy, through timocracy, oligarchy and democracy, to tyranny. By timocracy, the form exhibiting the least deviation from the ideal, he means a system dominated by the love of honour (τιμή) or glory, rather than of justice;[3] and it is very significant that he regards Sparta as essentially of this type. Oligarchy springs from the rise of private property, and is the rule of the wealthy few over the poorer many. Democracy reverses this situation and exaggerates liberty into anarchy. Finally, like a true Greek, Plato sets tyranny at the end of the scale — at the farthest remove from the abode of justice. But the tyrant is merely the fruit of democracy. By taking advantage of the dissension among the people he makes himself their master.

[1] *Rep.* V, 473. [2] *Rep.* VIII, 546 *et seq.*

[3] Power is in the hands of the warrior rather than of the guardian class.

4. *The Statesman*

In *The Statesman* Plato's chief purpose is to develop the "idea" of a ruler, and to set political science in its proper place in the broad scheme of knowledge. The result is embodied in an identification of the true statesman with the all-wise philosopher, and an identification of politics with education and character-building.[1] These conceptions have already been formulated in *The Republic*, but they receive in *The Statesman* a more precise definition, and are cast in a more rigidly scientific mould. The ideal ruler and the abstract political science are set off with the utmost distinctness from the practical politician and the principles of practical administration. Plato here, as elsewhere in his works,[2] relegates to a wholly inferior category those arts and those men that are concerned with the management of military and fiscal details in the city's life, and even those who administer justice according to the laws. The function of the true statesman is to make the citizens conform to the ideal standards of virtue; and true political science is that knowledge by which men are taken care of either with or without law, either with or without their own consent.[3] From the point of view of ultimate truth there is no significance whatever in the various characteristics which are commonly employed in discriminating governments as

[1] *Statesman*, 306 *et seq.*

[2] *Gorgias*, 515.

[3] *Statesman*, 293.

good or bad. That the rulers be few or many, or rich or poor, or that the subjects obey willingly or unwillingly, has nothing to do with the matter. The true physician is he who cures us, "whether he cures us against our will or with our will . . . whether he practises out of a book or not out of a book, and whether he be rich or poor"; and the principles he applies are true medical science. Not otherwise are to be judged the statesman and his science.

This conception of politics precludes the consideration of law and legislation as factors in ideal government.[1] But in *The Statesman*, as in *The Republic*, Plato discusses the relation between the ideal and the actual, and this gives the opportunity for a striking analysis of the function of law (*νόμος*). Ideally the discretion of the all-wise philosopher is a perfect guarantee of excellence in administration, and stands in marked contrast to the narrow and inflexible prescriptions of a past time. To restrain the discretion of such a being by rigid rules, would be like restricting the trained physician or the skilled pilot to specific modes of action regardless of circumstances. But conceding that the all-wise philosopher is unavailable, Plato attributes the utmost importance to law, as the expression of experience and practical wisdom. No actual man or group of men possesses so much of the spirit of true political science as is embodied in the written laws and national customs of a people,[2] and undeviating conformity to these

[1] *Cf. supra*, p. 31.

[2] *τὰ γεγραμμένα καὶ πάτρια ἔθη.* — *Statesman*, 301.

is the first essential of those imperfect systems of government which exist among men.

On the basis of this conception, Plato frames a classification of governments which differs considerably from that outlined in *The Republic*.[1] As one basis of division, he adopts that of the number of persons exercising supreme authority — a basis already common in Greek thought and employed by Herodotus;[2] but crossing this, Plato applies also the relation of the government to law. His ideas may be expressed in the subjoined table: —

Subject to Law	Unrestrained by Law
The rule of One is Royalty	Tyranny
The rule of the Few is Aristocracy	Oligarchy
The rule of the Many is Democracy	Democracy

None of these forms, of course, is absolutely good. But practically considered, from the standpoint of the citizen, the rule of one is at the same time the best and the worst of the six. That is to say, when subject to law it is the best, and when unrestrained by law (tyranny) it is the worst. Aristocracy and oligarchy are intermediate in respect to good and evil. The rule of the many stands in a position the reverse of that occupied by monarchy. That is to say, democracy is the worst of governments that are subject to law, but the best of those that are without law. This relative excellence arises, however, exclusively from

[1] *Supra*, p. 33.

[2] *Cf.* the discussion of the Persian conspirators after the death of the false Smerdis, Bk. III, c. 80. The historian puts Greek ideas into barbarian mouths.

the fact that democracy is in every respect weak and inefficient, and unable to effect much either of good or of evil; it is therefore least oppressive of the three where the restraints of law are absent.[1]

Thus, from a point of view quite different from that in *The Republic*, Plato is enabled to demonstrate the same conclusion that democracy is essentially bad.

5. *The Laws*

The last and most extensive treatise of Plato on politics, *The Laws*, signifies by its title the last step in the transition of his philosophy from the field of the ideal to that of the actual. In *The Republic* he considers the ideal state almost exclusively. In *The Statesman* he retains this point of view, but descends, as we have just seen, to the discussion of some highly significant phases of actual government. In *The Laws*, finally, he formally abandons his idealism, and seeks to set forth a system that would be workable among imperfect men. Having demonstrated in *The Statesman* that a régime of legal and constitutional limitations, though logically irreconcilable with the perfect ideal of government, was indispensable to excellence in actual states,[2] he purposes in *The Laws* to formulate a code that shall absolutely determine the life of the community, and shall thus insure the best results possible in a practicable political system.

The spirit of this code manifests very clearly, however, the persistence of the earlier ideas. Plato clings

[1] *Statesman*, 303.

[2] For a striking passage sustaining the thesis that law should be above man, see *Laws*, IV, 715.

as far as possible to the broad principles of *The Republic*, introducing modifications with frank reluctance only when the requirements of a practical community seem imperatively to demand it. Thus he concedes the necessity of marriage and of family life; but the government is authorized to persuade the union of couples in whose contrasting qualities is found the hope of well-balanced offspring, to inspect and regulate the most intimate details of domestic routine, and to compel the presence of the women as well as the men at the public mess.[1] Again, education ceases to be the almost exclusive occupation of the magistrates, but a system is prescribed which is to be most rigidly enforced upon all the youth, and the intellectual and artistic development of the citizens is made subject to a thoroughgoing censorship, in comparison with which the most rigid system of actual history would be lax and lifeless.

In respect to property also Plato concedes that the communism of *The Republic* is impracticable. The principle of private property is therefore admitted, but the evils of an inequitable distribution are guarded against by precautions that to the modern mind seem fatal to the principle. The philosopher fully appreciates the economic basis of political discord. A tranquil state will be one in which there is neither extreme poverty nor extreme wealth; hence the laws

[1] *Laws*, VI, 773 *et seq.* For the administration of these powers Plato would have the primary authority in the hands of a ward committee of women, whose chief duty should be the close supervision of young couples for the first ten years of married life.

must promote equality of possessions.[1] Especially must the ownership by citizens of equal shares of land be safeguarded; and through the discouragement of commercial pursuits by all possible means the accumulation of wealth in other forms must at least be impeded.[2] Despite all legislation to obstruct it, however, inequality in property will arise, and so far as it is inevitable, it must be taken into account in the organization of government. Accordingly, Plato bases his classification of the people, for the assignment of offices and honours, on wealth, and not, as in *The Republic*, on intellect. Four classes are provided for. The first consists of those who possess only the equal allotment of land which the state guarantees to every citizen as the "limit of poverty." The other three classes are determined by the possession of wealth to the amount of two, three and four times the value of the share of land; and property accumulated by any citizen in excess of the fourfold measure is subject to summary confiscation by the government.[3]

In describing the governmental organization of his polity Plato avowedly seeks a mean between monarchy and democracy. These two forms he takes as representative of the contradictory principles of authority and liberty. Either principle carried to excess results in disaster to the state, as may be seen

[1] *Laws*, V, 744.

[2] Gold and silver are excluded from the state by Plato's code, except so far as the treasury of the state requires a store for use in foreign relations. V, 742.

[3] V, 744.

in the history of Persia and of Athens.[1] Moderation is essential to the maintenance of good feeling between rulers and ruled; and Plato attributes the highest importance in politics to this relation — to the principle of friendship, as he calls it. Indeed, he lays it down as according to nature that government should be "the rule of law over willing subjects, and not a rule of compulsion" — a proposition which is much like the "natural law" of modern days, that government rests on the consent of the governed.[2] The monarchic government, then, must be so organized as to check the undue extension of the principle of authority; Sparta, in the restraints imposed by senate and ephors upon the kings, seems to Plato to have attained this end. On the other hand, democratic liberty must be prevented from degenerating into license.[3] Especially must the conception of equality, which is the foundation of democracy, be properly understood. For equality is of two kinds, absolute and proportionate. The former requires that every citizen have precisely the same opportunity to perform every public service; the latter,

[1] *Laws*, III, 693 *et seq.* Plato's analysis of the decline of these two governments is characteristic. In the one case the primary cause, he declares, was the failure of the strong monarchs, Cyrus and Darius, to give their sons a proper education; in the other, the failure of the authorities to exclude corrupting novelties in music and drama from the Athenian stage.

[2] *Laws*, III, 690; *cf.* VIII, 832. For an anticipation of the contract theory of the relation between king and people, see Plato's interpretation of early Peloponnesian history, III, 684.

[3] Even the sports of the children are to be carefully watched, lest innovation should creep in and plant the seeds of destructive radicalism in politics. VII, 797.

that part in the government be proportioned to the merit of each. In appointment to office, therefore, choice by lot will be the mode expressive of absolute equality; some other mode, such as election, must be combined with this if proportionate equality is to find recognition.[1]

The details of the administrative organization which Plato sketches out for his state need not particularly detain us.[2] The chief place in the administration he gives to a board of thirty-seven, called guardians of the laws, chosen by election in three stages by the citizens who bear arms. Only men of fifty years of age and upward are eligible, and each retires when he reaches seventy. These guardians constitute the general advisory and supervisory authority for the whole administration. Military officials are elected, on nomination, primarily, by the guardians. Provision is also made for an administrative council of 360, chosen through a combination of election and lot, with functions similar to those of the Athenian preconsidering senate. A general assembly of the citizens (ἐκκλησία) is presumed,[3] rather than described, as an element in the governmental system, but its functions consist chiefly in the election of the various magistrates. The judicial organization is based formally on the principle that all citizens should have a voice in the administration of justice; but the methods of procedure and appeal are so arranged as to insure a

[1] *Laws*, VI, 757. [2] See Bk. VI, at large.
[3] *Cf.* VI, 758, 764.

predominant influence to a select court of magistrates.[1] Finally, as the capstone of the whole governmental edifice, Plato ordains a council consisting of the ten oldest guardians of the laws, the priests that have been distinguished for virtue, and those magistrates who have had charge of education, together with a number of younger men equal to that of the older.[2] To this body, which shall meet daily between dawn and sunrise,[3] is assigned the supreme duty of determining when and to what extent changes shall be made in the laws of the state.

For legislation in the familiar modern sense no especial provision is made in *The Laws*. The prescriptions of the code are assumed to cover all important points — all matters that are worthy the wisdom of a scientific lawgiver. Moreover, the form of the code is such as to present, not only the rule, but the purpose and justification of the law, so that persuasion as well as penalty shall play a part in securing obedience. This Plato considers a very important feature of legislative art.[4] On the basis of the laws thus formulated, the elaboration of details may be left to administrative officials guided by experience.[5] Finally, no written laws, however detailed, will altogether displace the customs or unwritten laws of a people; hence it is that the

[1] VI, 767, 768. [2] XII, 951, 961.

[3] This body is known commonly as the "nocturnal council."

[4] Bk. IV, 718; *cf.* also VII, 822. As Janet points out, Plato discerns the principle of the *exposé de motif* of modern continental legislation.

[5] Bk. VI, 770; *cf.* VIII, 828.

utmost attention is to be paid to the education of the young.[1]

It is impossible to discover in *The Laws* the criterion by which Plato distinguished the general and important from the secondary and unimportant in legislation. The work is for the most part an unsystematic assemblage of ideas on the most diverse features of social life. Besides the matters already considered, it embodies regulations touching many varieties of crime and tort, various phases of contract law, testament, trade, witchcraft, the treatment of slaves, treasure-trove, funerals, agriculture, divorce and many other things. In this mass of matter there is much that is exceedingly valuable from the standpoint of social history and comparative jurisprudence. The philosophy of the state is chiefly to be found in the points that have already been particularly considered.

6. *Plato's Theory and Hellenic Facts*

The *a priori* and idealizing method of Plato's political philosophy does not conceal from even the casual reader the intimate relation between the doctrines enunciated and the currents of practical Greek politics. It does not require the explicit eulogy of Sparta which several times occurs[2] to reveal that the Peloponnesian state and the system she represents constitute the model from which the philosopher draws his inspiration. The foundations of *The Republic* are indeed carefully laid in abstract ethics and dialectic,

[1] VII, 793. [2] *Rep.* X, 599; *Laws*, III, 691 *et seq.*

but the superstructure discloses, both in general effect and often in details, the lines of the Lycurgean institutions. In Sparta, as in *The Republic*, the governing class was occupied exclusively with political affairs, lived a life of publicity and, in theory at least, of austerity, participated in and supervised a vigorous discipline designed to maintain a uniformity of type among citizens, and ruthlessly sacrificed every individual or family interest to the interest of the state. Lycurgus in the real, as Plato in the ideal, commonwealth prohibited written laws and money of gold and silver; and in the one polity as in the other, polyandry and the exposure of weak and deformed infants were recognized as useful and proper devices for preserving the physical integrity of the people. Sparta's successful career in Hellenic politics, culminating in the destruction of Athenian power through the Peloponnesian War, made a powerful impression upon all reflecting Greeks. It is hardly surprising that the philosopher should have attributed special virtue to the peculiar constitution of the triumphant little state. Not only her success abroad, but also the stability of her government at home, made her exceptional in Hellas. But on the other hand, the Spartans were notoriously without part in the intellectual progress of the times. Hence the criticism which Plato makes upon their system, and hence the deviation of his ideal from their practical state. He finds their training one-sided — physical and military, without balance on the side of intellect and philosophy. The method of their discipline he adopts,

but the substance will not fulfil the demands of a rounded character, and is supplemented, therefore, in *The Republic*, by adequate attention to the lacking elements.

In *The Laws* Plato makes some amend to his native Athens for the *injuria spretæ formæ* in his earlier work. Hellenic history during his later life had furnished ground for a revision of judgment as to the supreme efficiency of the Spartan system, even in the purely military and political sense. That Athens, once crushed to the earth, had shown sufficient recuperative power to stand once more on equal terms with her conqueror, may well have contributed something to the modification of the philosopher's ideas. It is certain, at all events, that many more suggestions of Athenian institutions are to be found in *The Laws* than in *The Republic*. The governmental organization in the first-mentioned work bears very obvious kinship to the constitution of Solon; the fourfold classification of the people according to wealth, and the form and functions of the great administrative council, are almost identical with conspicuous features of the Solonian scheme; and both the guardians of the laws and the "nocturnal council" strongly suggest the senate of the Areopagus. Perhaps the extent to which democratic ideas ought to be recognized in political practice was about the same in the minds of Plato and of Solon. For the development of popular government effected through Kleisthenes and Pericles, Plato shows no more sympathy in *The Laws* than in *The Republic*. He is, in

fact, by Athenian standards, some two centuries behind the times.

In general, then, the political philosophy of Plato involves an interpretation of Greek history and a judgment upon existing institutions. His perception of the principles that underlie these institutions is in many cases keen and sure, but his attempts to suggest practical improvements that shall more faithfully express the principles never take him beyond the bounds of Hellenic experience. His conception of the state is that of a small group of persons striving to realize a high ideal of moral and intellectual attainment through self-discipline and through the judicious adaptation of the powers of a much more numerous body of persons associated with them in the political community. To him the state exists only in the select few, devoted exclusively to its service. No citizen, he holds, should engage in mercantile pursuits or mechanical trades; these occupations are suited only to slaves and aliens.[1] Nor is the attainment of great power or great wealth an end to be considered for either the city or the citizens.[2] Not dominion by land and sea, but excellence and happiness must be the aim of the true legislator. In *The Laws* Plato fixes the number of citizens at 5040, with slaves and other elements duly proportioned to the needs of these, and commands that this number shall remain absolutely fixed. Such a rule, he believed, would insure a sufficient equipment of all the qualities necessary to social happiness.

[1] *Laws*, VIII, 842, 846. [2] *Ibid.* V, 742.

The aristocratic city-state thus was the absolute limit of Plato's thought. Not even that degree of imperialism which had been realized by Athens and Sparta received recognition in his philosophy. Yet at the time of his death a far more striking imperialism was near at hand in the Greek world. But so fixed is the backward look of philosophy that some nineteen centuries were destined to elapse before political theorists freed themselves from the influence of the city-state idea, and adjusted their speculations to the fact of systems in which the citizens were numbered by millions.

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CHAPTER III

THE POLITICS OF ARISTOTLE

1. *Method and Character of The Politics*

THE capital significance of Aristotle, in the history of political theories, lies in the fact that he gave to politics the character of an independent science. He differs from his master, Plato, much more in the form and method than in the substance of his thought. Most of the ideas which seem characteristically Aristotelian are to be found in Plato.[1] But the Platonic expression of them is generally suggestion or allusion or illustration; while in Aristotle they appear as definite, clean-cut dogmas, bearing an unmistakable relation to the general system of scientific doctrine. This contrast is rooted in the respective intellectual peculiarities of the two philosophers. Plato is imaginative and synthetic; Aristotle is matter-of-fact and analytic. Ideas present themselves to Plato more through metaphor and analogy; to Aristotle more through the processes of exact logic. Plato is more impressed by the unity pervading phenomena; Aristotle, by the diversity. In ethics and politics, accordingly, while Plato, working deductively from

[1] Susemihl notes seventy-two places in *The Politics* that are paralleled to a greater or less extent in Plato. *Aristoteles Politik* (Leipzig, 1879), Einleitung, p. 11, note.

his philosophic conceptions of virtue and the good, blended inextricably the two bodies of doctrine, Aristotle, proceeding by extensive observation and minute analysis of objective facts, marked out for each science an independent field.

The foundation of his political theory was laid by Aristotle in a detailed study of practically all the existing governmental systems, both Hellenic and barbarian. More than one hundred and fifty polities are said to have been analyzed in a work which is quoted in ancient literature as *The Constitutions* (αἱ πολιτεῖαι). Of this work the only part now known by more than slight fragments is the recently discovered *Constitution of Athens*.[1] From this it is clear that the author studied governments both in their history and in their contemporary working, and that his method was in the fullest sense objective and scientific. In his systematic work, *The Politics*, Aristotle draws abundantly from the great store of facts accumulated in *The Constitutions*. It is not exact, however, to say that the principles of *The Politics* are strictly generalizations from these facts. To a less extent than Plato, but yet to a very great extent, Aristotle depends for the categories and broad outline of his philosophy upon the ideas that characterized contemporary Hellenic thought. The results of his study of other ages and other peoples are employed more in the correction and illustration than in the

[1] *Cf. Aristotle on the Constitution of Athens.* Translated, with introduction and notes, by F. G. Kenyon. London, George Bell & Sons, 1891.

foundation of his political science. His method is inductive, but not purely inductive. The intimate relations which he enjoyed with the half-barbarian court of Macedon[1] seem never to have moved him from the conviction that in the pure Greek society and government was to be found the political ideal. That Aristotle, while not like Plato an idealist, nevertheless was often determined in his philosophy by an ideal, will appear clearly enough in what is to follow.

The creation of an independent science of politics by Aristotle was accomplished by the disentanglement of political from ethical conceptions. In Plato's thought the two were completely blended. The separation effected by Aristotle was not so much the conclusion of a deliberate logical process as the unconscious outcome of the analytic method which he applied with such rigour to the solution of ethical problems.[2] Rejecting Plato's conception of a single universal abstract "good," Aristotle considers that "good" is relative to each species of being. What, he asks, is the science which treats of the highest "good" of man? His answer is: political science. For the good of man is the perfect development and activity of all the powers that are in him, and this result is impossible to the individual without the association of his fellows — that is, without the πόλις. Therefore, the good of the individual is merged in that of the state. But the state he conceives as

[1] His father was court physician to King Amyntas, and he himself was the tutor of Alexander the Great.

[2] Grant, *The Ethics of Aristotle*, I, Appendix C.

αὐτάρκης, or self-sufficing — that is, as dependent on no more ultimate form of being for the realization of the good which is its end. Therefore the science of the state, politics, is the dominant, "architectonic" science, embracing within itself, as a part, that which treats of man as an individual.

From the abstract point of view, thus, ethics is a subdivision of politics. But Aristotle's treatment of ethics never partook so much of abstract and ultimate philosophy as of practical wisdom. The principle of morality which he consistently set forth was that of a rational choice of the mean between two extremes of conduct.[1] The application of this principle involved the fullest recognition of human free will and led Aristotle often to ascribe to the self-conscious, rational intelligence of the individual the character of self-sufficiency which he had ascribed to the state. Thus, from the practical point of view, at least, ethics was impressed with the character of an independent science. But Aristotle himself was not clear at this point. He often refers to ethics as politics, sometimes intimates that the two are distinct, and in at least one case seems to refer to ethics as a different science.[2] His uncertainty is illustrated also in the repeated consideration in *The Politics*[3] of the question whether the virtue of the

[1] For a charming exposition of Aristotle's Ethics, see Janet, *Histoire de la Science Politique*, I, 103 *et seq.*

[2] *The Politics*, VII, i, 13, ἑτέρας σχολῆς. The peculiar usage of σχολῆς here has caused the passage to be suspected. *Cf.* Susemihl, note 709.

[3] III, iv; v, 10; xviii, 1. IV, vii, 2. VII, xiv, 8.

good citizen is the same as that of the good man. His conclusion seems to be, after much vacillation, that the answer is negative in the practical, but affirmative in the ideal or perfect state. Other evidence unites with this conclusion to indicate that Aristotle conceived of politics in a double sense: first, with Plato, as a pure science (σοφία), concerned with the absolute good of man, and the absolute perfect state; second, as a practical science (φρόνησις), treating of the constitutional and legal relations of actual men in actual societies. In the order of thought, then, politics in the first sense would be prior both to ethics and to politics in the second sense: pure political science would embody the abstract theory of which ethics and practical political science would be two distinct applications.[1] While such seems to have been the thought of the philosopher, his treatment of politics, at least in the works that have come down to us, was almost exclusively, like that of ethics, on the practical side. Hence, whether or not he fully realized the outcome of his work, the separation of the two sciences was definitely accomplished. The abstract ideal politics, in which the norms of individual and social excellence were identical, received only scanty attention and exercised little influence on later thought. But the keen, cold analysis to which he subjected the forms and motives of practical social and political

[1] *Cf. Nicomachean Ethics*, VI. 8, and the note of Grant, *op. cit.*, II, 169. In the *Rhetoric*, I, 4, 5, Aristotle uses the expression ἡ περὶ τὰ ἤθη πολιτική, which is very significant.

activity gave to reflection on this subject an individuality, a mould and a technique that it was never again to lose.

In the Aristotelian works on ethics are to be found expositions of many of the principles which lie nearest the border line of politics. Justice is defined, and the distinction between distributive and corrective justice, already noticed by Plato, is carefully worked out.[1] The relation of justice to law is examined, and natural (*τὸ φυσικόν*) is marked off distinctly from legal right (*τὸ νομικόν*). Equity also (*ἡ ἐπιείκεια*) is clearly defined as corrective of law. But it is in *The Politics* that the full and rounded exposition of these principles is to be found, as applied in operations of state life. There are indications that this work embodied originally a comprehensive and well-proportioned plan. As the treatise has come down to us, however, the plan is far from clear and the execution is confused and defective. The text abounds in repetitions, contradictions, obscurities and obvious gaps. This result is probably due, not only to accidents and errors in the transmission of the manuscript through the centuries, but also to the fact that the work never received a final revision by its author. The difficulty of ascertaining Aristotle's views has further been increased by the very zeal of the modern commentators, who, with the praiseworthy purpose of making the philosopher's work worthy of his reputation, have emended, conjectured, transposed, elided and

[1] *Nicomachean Ethics*, Bk. V.

inserted with an energy and a diversity that leaves the reader only the impression of hopeless confusion. But without radical editing, the treatise as it stands, with all its imperfections, is as impressive an embodiment of scientific genius and political insight as is the mutilated Vatican torso of the sculptor's art.[1]

2. *The Nature of the State and of the Household*

In the first book of *The Politics* the philosopher sets forth the fundamental characteristics of the state (πόλις). It is an association — an association of human beings — and the highest form of human association. In the order of time it is preceded by the household (οἰκία) and the village (κώμη); in the order of thought it is prior to both. The household has its source in the association of male and female for the propagation of the race and the association of master and slave for the production of subsistence. The village has its source in the association of households for the better satisfaction of their wants. The state springs from the union of villages into an association of such size and character as to be self-sufficing. It is the last and the perfect association. Originating in the bare needs of living, it exists for the sake of complete life.[2] And because the indi-

[1] The most annoying form of editorial modification is that which consists in transposing the order of paragraphs, chapters and books. No reference can be good for more than a single one of the really erudite editions of *The Politics*. Without regard to the relative merits of the various arrangements before the world, I have followed here the order of Jowett, *The Politics of Aristotle* (Oxford, 1885), to which all references have been made to apply.

[2] No mere translation can express all that is contained in the famous dictum of Aristotle: Γινομένη μὲν τοῦ ζῆν ἕνεκεν, οὖσα δὲ τοῦ εὖ ζῆν.

vidual can fulfil the end of his existence — can live a complete life — only in the state, Aristotle declares that man is by nature a political animal.[1] This dogma leaves no room for such discussion as has figured in later political theory, of a "state of nature" in which the individual lives a life of blissful isolation from his kind. The being who cannot live in association with his fellows, or who has no need to do this, is, Aristotle says, either on the one hand, a beast, or on the other, a god. There is no place in the philosophy of human phenomena for the consideration of such a being.

This conception of the state in its essential character does not, however, preclude the investigation of the less ultimate forms of association which prevail among men. Historically the πόλις was preceded by conditions in which the household, ruled by the patriarch, was the typical community. In this fact is to be found the explanation of the monarchic government of the earliest states; for the primitive king merely retained through custom the authority of the patriarch. But Aristotle insists that this historical relation of household to state must not be allowed to distort our conception of their logical relation. It is one of his numerous charges against Plato that the latter represented the state to be merely a large household and the ruler

[1] Ἄνθρωπος φύσει πολιτικὸν ζῶον. "Nature" here means, as Aristotle explains, that condition in which all potentialities are fully developed — where everything fulfils its τέλος, or true end. He sometimes uses "nature" in the sense of primitive or undeveloped condition.

of the state to be essentially the head of a family. Such a conception Aristotle holds to be false; state and household differ, not in degree, but in kind. To prove this he enters upon an exhaustive analysis of the household, in the course of which are set forth the philosopher's views upon many of the fundamental questions of economics.[1]

The main argument is summarily as follows: The household consists of an individual holding dominion over wife, children and property, including slaves. The relation of the head of the household to these three elements is not one, but various. He rules the wife, not as absolute despot, but as constitutional adviser; he rules the children, not as absolute despot, but as the king, who looks to their good rather than his own; while property, both slaves and other, he rules in full despotism, for the exclusive advantage of himself. In this manifold relation of the head of the household to the subordinate elements lies the essential distinction between the household and the state; for in the latter, according to Aristotle, the relation of the ruler to each of the citizens is precisely the same.

This argument, in itself, is not especially striking; it adds nothing to the force of the distinction made in the primary principle, that the household exists for the sake of the physical needs of life, the state for the moral and intellectual needs. But the detailed discussion of the nature and the function of the various elements of the household embodies much

[1] The care of the household he calls *οἰκονομία*.

that is of high significance in social and economic history and theory. At the very outset he is confronted by the necessity of finding a rational justification for slavery. The slaves constitute one of the natural elements of the household, as he analyzes it. "But some contend," he says, "that the distinction between slave and freeman is a fact only of law and not of nature, and that it is rooted not in justice but in violence."[1] To meet this contention he presents the first scientific discussion of the institution in extant literature. He concedes that the relation of master and slave is rational, only if it corresponds to some universal principle of nature. Such a principle is that which requires the combination of command and obedience for the attainment of any human purpose. Men differ from one another in capacity for the one or the other of these functions. There are those whose high endowment of reason fits them to command and direct; there are those whose slight endowment fits them only to comprehend and carry out orders. The former are by nature masters; the latter are by nature slaves. Intellectual strength is the chief characteristic of the former; physical strength, of the latter. The combination of the two is essential to the realization of those purposes for which the household exists; therefore slavery is in accordance with nature. Aristotle is quite aware that the actual institution does not correspond to this rational foundation. He admits that in fact many slaves are superior to their masters in intellect.

[1] I, iii, 4.

This, however, does not affect the reasoning; it is more or less accidental, due, he believes, to the absence of any clearly discernible outward mark by which the natural slave is to be distinguished from the natural master. The common practice of enslaving prisoners of war, Aristotle points out, can find justification only so far as the fact of success in battle can be taken as evidence of the superior intellectual endowment of the victors; but a judgment on this point is subject to many qualifications. Finally, the principle he lays down is the logical foundation of the widespread feeling among the Greeks that they ought to hold in slavery only persons of other races; for the inherent intellectual superiority of Hellenes over barbarians was one of the primary and universal axioms of Greek thought.[1]

As to its animate elements, then, the household is organized with reference to the gradation of intellectual capacity. This capacity exists in the woman in a weaker form and in the child in a less developed form than in the man. In the slave it has no existence whatever. Hence arise the three varieties of paternal dominion, all working for the realization of the highest good of the whole household. As to the inanimate possessions of the household, there is no question of the absolute dominion of the father. Aristotle assumes without examination the validity of the principle of private property. As to methods of acquisition, however, he finds room for much re-

[1] *Cf.* Plato, *The Republic*, V, 469; Aristotle, *The Politics*, I, vi, 6; VII, vii, 3.

flection, in the course of which he develops many familiar principles of political economy. The production of wealth has for him no high philosophical significance. He regards it as a more or less disagreeable necessity incidental to the maintenance of life, and hence as a function of the household, but the lowest of its functions.[1] From this point of view he distinguishes between natural and unnatural methods of acquiring wealth. The natural methods, which alone fall within the scope of true economic science (ἡ οἰκονομική), are those through which mere necessary subsistence is procured. Among these he enumerates cattle-raising, agriculture and hunting, the last including as subordinate species, fishing, the chase of land animals, and — oddly enough — brigandage (λῃστεία).[2] The unnatural methods of acquisition are those which aim, not at the mere maintenance of life, but at endless accumulation of wealth. These fall within the field of a distinct science, chrematistics (ἡ χρηματιστική). Of these methods trade, whether in the form of barter or in that of sale for money, may be natural, when pursued merely with a view to procuring necessities of life, and not as an end in itself. But through the use of money to facilitate exchange men have been led to see in

[1] Household management (οἰκονομία) has for its purpose rather to make the members of the family virtuous than to make them rich. I, xiii, 1.

[2] I, viii, 7 and 8. The philosopher further notes that war, also, is a species of hunting, and is allied to economic science so far as it aims to bring into servitude men who, being slaves by nature, are unwilling to submit. I, viii, 12.

money itself the end of trade; and hence has arisen, among other evils, the lending of money at interest. In this practice money is made to reproduce itself instead of being applied to the procurement of the needs of life. Such a mode of acquisition, therefore, has no logical justification and is, he concludes, wholly unnatural.

This discussion of economics is on the whole as remarkable for its weak as for its strong features. The keen analytical faculty which is so characteristic of Aristotle achieves excellent results in shaping the questions that are to be solved. The elementary ideas of production and exchange are fairly presented. He sees clearly enough the distinction between value in use and value in exchange, and the primary function of money has never been better elucidated than by him. But he fails entirely to grasp the notion of capital, and accordingly does not rise above the very primitive and absurd conception of interest. His glaring weakness at this point, and the no less remarkable freak of including brigandage in the normal methods of acquiring wealth, both may be traced back to an ambiguity in his conception of nature (φύσις). This term has, throughout the history of political theory, proved a stone of stumbling to philosophers. Aristotle, however, at the beginning of *The Politics*,[1] assigns to the word a clear and unambiguous meaning; namely, a condition of perfect development of all potentialities. But here at the end of the first book he evi-

[1] I, ii, 8.

dently thinks of it as denoting a primitive and undeveloped condition. In one place man is political by nature, because the state is characteristic of fully developed humanity. In the other place brigandage is a natural method of obtaining wealth, because it is a practice of undeveloped men, and the taking of interest is not natural because, apparently, it is not found among undeveloped men.

3. *Organization of the State: Constitution, Citizenship, Government*

In approaching the consideration of the constitution which shall most faithfully embody the true principles of political science, Aristotle first examines critically those systems, whether actual or theoretical, which have attained a general reputation for excellence. In the second book of *The Politics*, the constitutions of Sparta, Crete and Carthage, and the actual or projected legislation of distinguished thinkers, like Hippodamus, Phaleas and Solon, are described and their most conspicuous features commented upon. But the first place in the book is devoted to a severe, and at times distinctly unfair, criticism of Plato's ideas, as embodied in *The Republic* and *The Laws*. From the standpoint and with the method adopted by Aristotle, it is a matter of no great difficulty to exhibit many weaknesses in the Platonic theories. But probably the most significant feature of the critique is the attack on the philosophic supports of communism. Aristotle concedes that unity is of fundamental importance in

any conception of the state, but the means advocated by Plato for attaining it he holds to be destructive of the end in view. Thus, Plato says that if a man does not know his own children, he will feel an equally high affection for all the children in the state. But, answers Aristotle, the sense of personal possession is the whole basis of affection; therefore the result will be, not great love for all, but no love for any. Again, the degree of harmony to be expected from community of property is less than that from a régime of individual ownership; for, he argues, the disputes that arise among persons having joint interests are notoriously frequent and distressing, and without private property there would be no room for the establishment of those valuable social bonds which accompany the exercise of liberality, in accordance with the saying that all things are in common among friends.[1] The Platonic reasoning is, in fact, vitiated from the outset by an erroneous conception of the unity that is essential to the state. It is not a unity which consists in the obliteration of all diversities in individuals. Such a conception is fatal to the idea of the state, as identity in musical tones is fatal to the idea of harmony. The unity of the state is that which arises out of the proper organization of relations among individuals who differ from one another as rulers and ruled.

From this point of view Aristotle proceeds to the positive presentation of constitutional relations.[2] A

[1] Both Plato and Aristotle attached much importance to friendship (φιλία) as a social virtue; *cf. supra*, p. 40. [2] In Bk. III.

state, objectively considered, is an assemblage of citizens. What is a citizen? This question is answered primarily on a basis of fact — and of purely Hellenic fact. The citizen, he says, is one who participates in the functions of juror and legislator (δικαστὴς καὶ ἐκκλησιαστής), either or both. In other words, citizenship signifies merely the enjoyment of political rights, and a state is a group of persons exercising these rights. No part of the community not possessing such rights comes within the purview of politics proper. But Aristotle raises the further question, Who ought to be citizens? Especially, Are mechanics and labourers fit for inclusion in this class? His answer is negative. The prime qualification for citizenship is capacity both to rule and to be ruled, and the cultivation of this twofold capacity is indispensable. But those who must labour in order to live are too dependent on the commands of others ever to develop the capacity themselves to command.[1] Freedom from concern about the necessities of life is indispensable to the proper performance of political duties.[2] The working classes are, indeed, essential to the state's existence; but this does not constitute them citizens. While in practice they have been admitted to citizenship in many states, this, Aristotle thinks, has been justified only by the regrettable lack of true material.

The state, then, which the philosopher must consider consists in a self-sufficing body of such citizens as he has defined. The general system of author-

[1] III, iv and v. [2] II, ix, 2.

ity through which the functions of the state are performed is the constitution (*πολιτεία*). In the constitution are determined the number and interrelationship of the various organs of government, the methods through which they are manned, and, particularly, the abode of the supreme or sovereign power (*τὸ κύριον, ἡ κυρία ἀρχή*).[1] On this last point depends the difference between constitutions; for the governing body (*πολίτευμα*) is sovereign, and makes the constitution what it is. Accordingly, where the people is the governing body, the constitution is a democracy; where the few govern, it is oligarchy.[2]

Aristotle employs this conception of the constitution in determining when the identity of a state changes. With logic that has not been confined to ancient times and European lands, Greek governments had sought to repudiate debts on the ground that they had been contracted not by the state, but by the oligarchy or the tyrant. What, the philosopher asks, is the essence of the state, and when does it cease to be itself and become another? And he answers: The essence of the state is the constitution, and the state changes its identity when the constitution changes, *e.g.* when from democracy it becomes oligarchy or tyranny. But, he hastens to add, "it is quite another question whether the state should or

[1] IV, i, 10.

[2] III, vi, 1. Aristotle says: *κύριον παντα χοῦ τὸ πολίτευμα*; but he does not appear to mean what would be conveyed to modern minds by the literal rendering: "The sovereign is everywhere the government." *Cf. ad loc.* Jowett, Zeller, Susemihl.

should not fulfil engagements when it changes its constitution." This very impotent conclusion is perplexing, especially as *The Politics* contains no further discussion of the matter. From his identification of the state with its constitution the obvious inference would be that a democracy, for example, is not responsible for the engagements of a tyrant whom it has displaced. Either Aristotle here means by constitution something more than what he says in defining the term, or, not wishing to commit himself to the approval of the repudiation of contracts, he deliberately evades the logical dilemma.[1]

From the nature of the state and of the constitution as defined above, the philosopher draws one conclusion as to the normal, or natural, organization of government. Though the state arises from man's impulse to association with his kind, rather than from a deliberate search for mutual assistance, yet the advantages springing from political organization have a great influence in the maintenance of the social bond. These advantages, then, should be common to all the citizens. All alike should profit by the capacity of each in either ruling or being ruled. Hence the constitution should provide for the service in office of each of the citizens in his turn. Such at least should be the rule where the state is really a society of equal citizens. Quite different, the philosopher sententiously observes, is the actual practice;

[1] A third alternative, always to be presumed in *The Politics*, is that the text is corrupt or defective. But there is no indication of such a condition in this passage. III, iii, 9.

for, through selfish craving for the emoluments of public service, men seek for and cling to office as if their lives depended on it.[1]

4. *The Sovereign Power*

Conceiving the essence of the state to be expressed in the constitution, and the crucial feature of the constitution to be the supreme or sovereign authority (*τὸ κύριον*), the question at once arises: On what rational principle is the abode of this sovereignty to be determined? Controversy is particularly keen, Aristotle notes, between those who favour the principle of mere numbers and those who favour that of wealth and intelligence. The former, advocating democracy, claim that all who are equal in respect to freedom should be recognized as equal in political power, and that, accordingly, the sovereignty should rest in the general body of citizens. Against these the advocates of oligarchy contend that superiority in wealth or intelligence or birth should carry superiority in power, and that the supreme authority should therefore rest in the few. Both these arguments, Aristotle declares, miss the precise criterion, which is to be found only after reaching a correct conception of the nature and end of the state. The state is not an association for the acquisition of wealth, or for the mere maintenance of life, or, like an international alliance, for the promotion of definite political and commercial interests of the contracting parties. The end of the state is not that

[1] III, vi, 10.

certain persons shall have a common dwelling-place, and shall refrain from mutual injury and shall be in habitual intercourse with one another. The state embraces within itself associations for all these and other purposes, but such associations are based on friendship (φιλία) and look merely to living together. On the other hand, the state has for its end living well — living happily and nobly: it is an association not for mere life, but for noble actions.[1]

From this point of view, the greater share in political power should belong to those who contribute most to the perfect life. Virtue, especially that species called justice, is to be the criterion, rather than freedom or birth or wealth. Must sovereign power, then, be ascribed to the mass of the people, or to some limited class, or to some individual? Primarily, Aristotle answers, to the mass of the people. For the aggregate virtue[2] of the whole people exceeds that of any particular part. The same answer, indeed, would follow from a rigid application of the principle of wealth; for the whole is wealthier than any of its parts. But popular sovereignty, as thus conceived, is subject to an important qualification.

In the controversies of Hellenic politics over oli-

[1] III, ix.

[2] Virtue (ἀρετή) must always be understood in its ancient philosophical sense. It connotes much more than strict moral excellence. "Ability" would be perhaps nearer to the Greek idea, though defective as connoting no moral quality whatever. Custom has confirmed the translation of ἀρετή by virtue, and I shall adhere to this, subject to the caution here noted.

garchy and democracy the underlying thought was that the people (ὁ δῆμος) and the few (οἱ ὀλίγοι) in any given community constituted in fact two states, each existing or ceasing to exist as the one or the other faction gained control. This idea had much justification in the facts of the conflict. Democratic triumph in most cases meant the actual physical expulsion of the oligarchs from the community; while oligarchic triumph meant the exclusion of the mass of the people from all political rights and hence from the state, in the sense in which Aristotle defined it.[1] The unsatisfactory character of Aristotle's discussion as to the identity of the state[2] illustrates how prone he was to adopt the popular conception, and regard sovereignty as inhering in the dominant faction of the community. But more commonly he conceives the sovereign power rather as the highest authority in the administrative hierarchy, or as that part of the administrative organization which deals with the most important questions of policy. In other words, he thinks of the sovereign as subordinate to the state, and of the state as existing apart from any particular possessor of the chief governmental power.

The latter conception of sovereignty is that which the philosopher employs in deciding that the mass of the people must be sovereign. This does not imply that either the people as a whole or every individual alike is best adapted to administer all the offices of the state; but that the greatest and most fundamen-

[1] *Supra*, p. 64. [2] *Supra*, p. 65.

tal questions must be finally passed upon by the whole people. In practice this would mean, he explains, that the function of the popular body should be chiefly the election and censure of the officers of administration. For such functions the people as a whole is eminently fitted. It may, indeed, be argued that statesmen of eminent wisdom and experience would give a better judgment than the mass — that the few, rather than the many, are the logical sovereign in this sense. But Aristotle rejects this contention. The verdict of the general public is valid in politics, just as it is in musical contests and in banquets; not the musician and the cook, but they who hear the music and eat the dinner are best qualified to render judgment.

The sovereignty of the whole people, therefore, subject to the qualification that it be manifested in the election of magistrates and in holding them to account for their conduct in office, is the primary solution of the problem as to the location of ultimate power in the state. This solution presumes, however, that the citizens are on the whole not far from the same general level of virtue. Suppose, on the contrary, that among them is a small number, or even a single individual, whose virtue overwhelmingly exceeds that of all the rest, whether taken individually or collectively. In such a case, there can be, Aristotle holds, but one answer: the preëminently virtuous few or one is the logical sovereign. It is a consciousness of this fact, he explains, that has led democracies to devise the institution of ostracism.

An actual popular sovereign cannot tolerate in the body politic an individual who in any way embodies the possibility of becoming the ideal sovereign.

Finally, above every form of personal sovereignty, whether of the one, the few, or the whole people, must be placed, according to Aristotle, the sovereignty of the law (οἱ νόμοι). Only where the law is uncertain or incomplete may the authority of man be conclusive. Granting that, as some contend, the rigidity of law works frequent injustice; yet less injustice will spring from the prescriptions of customary law (οἱ νόμοι οἱ κατὰ τὸ ἔθος) than from the unchecked will of any man. For such law is free from the influence of human passions. The rule of law, Aristotle finely says, is the rule of god and reason only; in the rule of man there appears in addition something of the brute.[1]

5. *The Forms of Constitution*

Aristotle primarily classifies constitutions, first, according to the mere number of those in whom sovereign power is vested, and, second, according to the end to which the conduct of government is directed. The latter principle distinguishes pure from corrupt forms, for the true end of the state is the perfection of all its members. When the government is administered with this end in view, the state is pure; when the administration aims at the interest, not of all the citizens, but of the governing body

[1] III, xvi, 5.

alone, the state is corrupt. The classification of constitutions then assumes this form:[1] —

Sovereignty of	Pure Form	Corrupt Form
The one	Royalty	Tyranny
The few	Aristocracy	Oligarchy
The whole people	Polity	Democracy

In respect to this classification it is to be observed that the pure forms are based on an ideal which belongs to political science in its broadest and most abstract sense;[2] while the corruptions (παρεκβάσεις), so called because they deviate from the ideal, are what fall strictly within the field of politics in its practical and independent character. Aristotle's conceptions of royalty and aristocracy are hardly less idealistic and fanciful than Plato's. Royalty is substantially the rule of the one perfect man; aristocracy is the rule of the few perfect men, not easily to be distinguished in their attributes from Plato's "guardians." If Aristotle had confined himself to an abstract and idealistic treatment of these various constitutions, his work would have exhibited little divergence from Plato's. But in *The Politics*, as we have it,[3] the discussion is of an eminently practical

[1] III, vii. *Cf.* also *Nich. Eth.* V, 10, where a somewhat different nomenclature is employed.

[2] *Supra*, p. 53.

[3] The text of Books IV, VI, VII and VIII, which cover this subject, is in a condition of such corruption as to render the precise order of thought which Aristotle intended to follow hopelessly uncertain. By transposition of the order of the books and by high-handed rearrangement of paragraphs, various plausible schemes have been devised in which coherency of development is preserved. These are all ingenious, and most of them are scientific. Whether any of them is Aristotelian, no one can say.

character, and the ideal constitutions, while cropping out from time to time, are quite overwhelmed in the mass of historical and critical commentary on the perversions, which alone are in vogue among actual men. Only in the case of the polity is an ideal brought into close relation with a possible constitution. The term πολιτεία, which means constitution in general, is applied by Aristotle also to the special form of democratic constitution. And polity, in this narrow sense, he views in some places as an abstract ideal, but in others as a system quite susceptible of realization through a proper tempering of actual democracy.

For monarchy the philosopher can find a rational justification only in the purely ideal case of an individual absolutely preëminent in virtue. To such an ideally perfect man may be ascribed the right to rule,[1] unrestrained by law. But for actual states the best possible law has a better ground for supremacy than the best possible man. And for the work of government subject to law, the capacity of an individual can never equal that of an aggregation of individuals. The many is less easily corrupted than the one; and even though the one may have nominal supremacy, the physical impossibility of conducting the administration single-handed renders necessary a plurality in government which is not different in kind from a plurality immediately under the constitution. Aristotle's conclusion is, in fact, that mon-

[1] But Aristotle points out that not even here could the principle of hereditary succession be recognized.

archy not only is illogical, but also is practically impossible.[1] Tyranny, the corrupt form of royalty, Aristotle regarded as resting purely on force, and therefore as having no place in a purely rational system of politics.

For his detailed examination of the non-monarchic constitutions, Aristotle points out that the different forms rest upon a deeper foundation than that of mere number in the sovereign body. Oligarchy and democracy signify, respectively, the domination of the rich and that of the poor; while practically these classes are the few and the many, the greater importance lies in the economic, not in the arithmetical, fact. But these two forms again require, according to Aristotle, further subdivision. Democracies differ from one another, and the same is true of oligarchies; here again the various shades,[2] of which he enumerates four under each form, have a close relation to social and economic facts.[3] The form, amount and diffusion of wealth play a large part in the peculiar adjustments of political organization.

In the detailed treatment of aristocracy and polity, the original character of the two is almost entirely lost sight of by Aristotle. Their relation to oligarchy

[1] He considers only Greek states. The system of the great barbarian monarchies does not lie within his category of constitution (πολιτεία).

[2] The distinction between these varieties is made to turn partly upon the extent to which government is subject to law. This criterion had been used by Plato.

[3] For example, the four varieties from most moderate to most extreme democracy correspond in general to the predominance of agricultural, mechanical, mercantile and maritime pursuits among the mass of the people. IV, iv, 21 and vi, 1–6.

and democracy appears no longer as that of the pure to the corrupt, dependent upon the end to which government is directed. On the contrary, the distinctions are made to turn upon the characteristic principle that determines participation in political functions. The principles that are in conflict for supremacy in every community, Aristotle says, are liberty, wealth, virtue and good birth (εὐγένεια). Where part in the conduct of the government is assigned on the basis of liberty (and equality, which is an essential element in liberty), the constitution is democratic; where on the basis of wealth, it is oligarchic; where on the basis of virtue, in the strictly ideal sense, it is aristocratic.[1] Polity is the constitution that embodies a blending (μίξις) of the two principles, liberty and wealth. When with these two virtue also is combined, the resulting form is entitled to, and generally receives, the name of aristocracy. But this mixed aristocracy he carefully distinguishes from the pure and ideal aristocracy of which the principle is virtue alone.

The full application of Aristotelian analysis thus gives a rather formidable aggregate of forms of constitution; and it is doubtful if the philosopher in his best estate could have assigned an actual government clearly and categorically to any one particular class. Certainly *The Politics*, as we have it, is very far from clear in distinguishing each from all the

[1] Good birth Aristotle disregards; for, he says, it is merely long-standing wealth and virtue. ἡ εὐγένειά ἐστιν ἀρετὴ καὶ πλοῦτος ἀρχαῖος. — IV, viii, 9.

rest. Polity and the mixed aristocracy are especially difficult to disentangle,[1] and various shades of democracy and oligarchy approach perplexingly near to both. But there can be no doubt as to the success of the philosopher in detecting the broad underlying influences, historical, social and economic, through which the manifold variety in political organization is determined. It is his realization of the diversity in these influences that leads him more or less unconsciously to shift from time to time the basis of his classification.

The practical significance of the distinction between constitutions on the basis of principle is best revealed in his refined analysis of the three elements essential to every government.[2] These necessary elements are: first, a deliberative organ (*τὸ βουλευόμενον*); second, a system of magistracies (*τὸ περὶ τὰς ἀρχάς*); and, third, a judicial organ (*τὸ δικάζον*). On the divergencies of form and function in these three elements depends the character of the various constitutions. It is because these divergencies are practically infinite in number that the forms of constitution shade imperceptibly from one to another of the prominent types. In extreme and unquestionable democracy the deliberative organ would be an assembly of all the people, determining directly all questions pertaining to this organ;[3] the magistracies would be

[1] Sparta is given in different places as an example of each of these forms. *Cf.* IV, vii, 4 and ix, 6–10.

[2] IV, xiv *et seq.*

[3] Aristotle enumerates as such: peace, war and alliances; legislation; infliction of penalties in cases punishable with death, exile and

filled by lot, and all citizens would be eligible for all offices; the administration of justice would be in the hands of a jury court, chosen by lot from the general body of citizens and exercising jurisdiction over all kinds of cases. In extreme oligarchy, the deliberative organ would be a close corporation of very wealthy citizens, with unlimited powers; the magistracies would be based on a high property qualification for eligibility; and the jury court, with general jurisdiction, would consist of a small body, elected on a high property qualification. Polity would exhibit some such combination as this: for the deliberative organ, a body of citizens, with at most a moderate property qualification, exercising jurisdiction over only a part of the subjects normal to this organ;[1] the magistracies filled through election, either alone or in combination with the lot, but with a property qualification for eligibility; the administration of justice divided among a number of courts and magistrates, the jurors, like the magistrates, being chosen by a combination of lot and election, and with a moderate property qualification. Practically, the most conspicuous characteristics of the various forms are conceived to be: in democracy, concentration of important functions in the general body of citizens, assignment of offices by lot, as the guaranty of perfect equality, and compensation for public services; in oligarchy, concentration of functions in a narrow

confiscation of property; election of magistrates and review of their official conduct.

[1] The other subjects would be in charge of various magistrates.

body of the wealthy, assignment of offices on a property qualification, and unpaid public services; in polity, diffusion of functions among various organs, assignment of offices by a combination of lot and election. Practical or mixed aristocracy would be determined by the employment of oligarchic forms, subject to a primary regard for fitness, rather than for wealth, in the ruling body.

6. *The Best State*

In approaching the question as to which form of constitution is the best, the same analytical method which so minutely distinguished the different varieties is applied, with the result that no categorical answer is recognized. We must consider, Aristotle declares, not only what form is the best absolutely (*τὴν ἀρίστην ἁπλῶς*), but what is the best attainable by actual men and on the average (*μάλιστα πάσαις ταῖς πόλεσιν ἁρμόζουσαν*), and what is the best under given conditions (*ἐκ τῶν ὑποκειμένων*).

As to the absolute or ideal state, there is no room to doubt that the dominion of absolute and ideal virtue or fitness must determine. That is, the best must rule; if one man is preëminent in excellence (*ἀρετή*), the form will be royalty; otherwise, pure aristocracy. Leaving these aside and considering actual men, the criterion of preference among constitutions is the same as in respect to individual conduct: the mean (*τὸ μέσον*) must control. In human society extremes of wealth and poverty are the main sources of evil. The one brings arrogance and a lack of capacity to

obey; the other brings slavishness and a lack of capacity to command. Where a population is divided into the two classes of very rich and very poor, there can be no real state; for there can be no real friendship between the classes, and friendship is the essential principle of all association.[1] That state, therefore, will be the best in which the middle class is stronger than either or both of the extremes. In such a state the influences which make for peace and order will wholly prevail and stability will be insured. The constitution which in all respects embodies the principle of the mean is polity. This constitution, therefore, must be on the average the best.[2]

But it is not to be understood that this form, which is on the average the best, is necessarily the best for every people and under every set of conditions. Circumstances, Aristotle holds, may make any form the best. The general principle here is that the element which desires the existing constitution to stand shall be stronger than those which desire change. In other words, stability is the criterion; and that constitution is best which under the circumstances will last the longest. In this sense, democracy is best where the poor greatly exceed the rich in numbers; oligarchy, where the superiority of the rich in resources and power more than compensates for their inferiority in numbers; polity, where the middle class is clearly superior to all the rest.

[1] ἡ κοινωνία φιλικόν, IV, xi, 7.

[2] Mixed aristocracy is not clearly enough distinguished by Aristotle from polity to warrant giving it a preferential position. Theoretically, it would apparently stand first of the two.

So far as it is possible to arrange an order of excellence with reference to all the various points of view from which Aristotle considers the different forms of government, the following[1] would convey his ideas: 1, ideal royalty; 2, pure aristocracy; 3, mixed aristocracy; 4, polity; 5, most moderate democracy; 6, most moderate oligarchy; 7, the two intermediate varieties of democracy and oligarchy, the former having preference over the corresponding grades of the latter; 8, extreme democracy; 9, extreme oligarchy; 10, tyranny.

The plan of *The Politics* contemplates a detailed exposition of the conditions essential to the best constitution. It is not clear whether this feature of the work was intended by Aristotle to deal primarily with the best absolutely or with the best on the average.[2] In his treatment of the subject there is much that is abstract and idealizing, suggesting that he has in mind the pure aristocracy; there is also very much of the characteristic Aristotelian practicality, suggestive of the polity. But in the text of *The Politics*, as it has come down to us, the details of constitutional organization are wholly lacking; and attention is confined to the determination of the most favourable external conditions for the state and the most effective methods of character-building for the people.[3] A prelim-

[1] *Cf.* Susemihl, note 1305.

[2] Book III, end. Here the discussion is announced in general terms. The specific purpose is a moot question in the controversies of the commentators as to the order of the books.

[3] The best state is the subject of Bks. VII and VIII, the latter being a mere fragment.

inary discussion, devoted to a nearer definition of the true end of the state, develops the conclusion that for the state, as for the individual, the best life lies in the pursuit of virtue, rather than of power or wealth. As there is nothing noble or exalted in the ruling of slaves by an individual, so there is nothing noble or exalted in the exercise of despotic dominion by a state.[1] Conquest, therefore, through aggressive war is not to be recognized as an end to be kept in view by the philosophic legislator.[2] A peaceful career, devoted to self-perfection through the harmonious and unceasing activity of all the elements of political and social organization, is the true ideal, and that which involves complete happiness for both state and people.

The realization of this ideal depends partly upon external conditions, which must be more or less determined by chance, but to a far greater extent upon the character and culture of the people, which may be fixed through scientific legislation. Aristotle's treatment of both branches of the subject strongly suggests that of Plato in *The Laws*. He aims to present the desirable features of a city-state, without exceeding the limits of the possible, and he employs constantly the doctrine of the mean. The size of the population and the extent of territory

[1] But Aristotle recognizes the justice of non-despotic dominion, *i.e.* that which is directed to the good of the subject state rather than of the master state. VII, xiv, 21.

[2] In strict accordance with his theory of slavery, Aristotle intimates that aggressive war is just when directed against those who are by nature slaves. *Ibid.*

must be sufficiently great to make the state self-sufficing. But the number of people must not exceed what can be well supervised (εὐσύνοπτος); the community must be a city (πόλις) and not a people (ἔθνος).[1] The city should be situated near enough to the sea to procure what is necessary from abroad, but not near enough unduly to stimulate commerce and the seafaring class. In natural endowments the population should resemble the Greeks, who combine the spirit and courage of the northern races with the intellectual keenness of the Asiatics.[2] The elements essential to make the state self-sufficing are agriculturists, artisans, warriors, well-to-do people, priests, and administrators (κριταὶ τῶν δικαίων καὶ συμφερόντων). Of these the first two, on principles already mentioned, while *in* the state cannot be *of* it. The other classes are as to *personnel* one. They must constitute the citizens proper, must own the land (in severalty, save a part owned by the state), and must perform at successive periods of life the functions of warriors, administrators (participants in all forms of purely political life) and priests. Performing thus in succession the various duties of citizenship, they will

[1] "What commander," he asks, "could marshal so huge a host, or what herald, save with the voice of Stentor?" That is, the limit of the number of citizens depends upon the possibility of conducting a public assembly at which all should be present. VII, iv, 11.

[2] The Hellenes, he observes, are in a peculiar measure fitted for political life, and could, if united in a single government, rule the world. (VII, vii, 2, 3; *cf.* Plato, *Republic*, IV, 435.) Several philosophers since Aristotle have adopted his principle, and have applied it so as to show that their own particular people, because lying south of some nations and north of others, are especially qualified for dominion.

maintain that equality which is distinctive of the free citizen and will round out the civic character by experience in both ruling and being ruled. Supported by the produce of their land, they will enjoy that leisure without which true virtue is impossible.

In addition to these important considerations Aristotle discusses many minor features of the internal ordering of the city, and devotes particular attention to the arrangements for defence against attack. His ideal city is not contemplated as remote from the contingencies of foreign war. The topography of the site, the water supply, the arrangement of the streets,— all must have reference to a possible siege; and fortifications, both walls and citadel, he regards as indispensable. Clinging firmly to his principle that aggressive war is excluded from the purposes of the ideal state, he maintains that a full provision of all the latest improvements in warlike equipment must be made as the surest guaranty against attack.

As to the means through which the ideal character is to be developed in the citizens of the state, Aristotle finds it, as did Plato, in scientific education (*παιδεία*). The ultimate function of the state is pedagogic. For the perfection of the community depends upon the perfection of its constituent members, and the perfection of the latter can be achieved only through the cultivation of moral and intellectual excellence. Hence a system of uniform, compulsory, public education is the first essential of the best state, and the administration of such a system is the most important function of government. Aristotle's proj-

ect of educational legislation is of the same general character as that of Plato. It aims at mental culture rather than practical utility, lays due stress upon the physical side of the training,[1] and attaches to music a moral significance and a character-making influence that are quite incomprehensible to the modern mind. The full application of this system is to begin in the case of each citizen at the age of seven. But no less important to Aristotle than to Plato seems governmental supervision of life from its very inception. We find in *The Politics* provision for a rigid regulation of the times and conditions of marriage and procreation and of the care of the young.[2] Thus will be insured the ideal basis for the later training, the finished product of which will be a matured manhood of physical grace and beauty, combined with a moral and intellectual fitness for the lofty thought and noble action that are worthy of the free man's leisure.

7. *Revolutions*

Ideally, the stability of a constitution would be insured by the system just described. From this point of view, Aristotle made no important advance over Plato. Practically, however, instability and transformation had been a most characteristic feature of

[1] In connection with this, Aristotle inveighs even more strongly than Plato against the undue attention given by the Spartans to merely military exercises, and declares that the decline of Sparta proves that the system has been a failure.

[2] The physical integrity of the population is to be maintained by the exposure of defective infants, and the legal limit of its size by the practice of abortion. VII, xvi, 15.

Hellenic constitutional life, and as such it afforded a particularly appropriate field for the application of the Aristotelian method. Plato's systematic treatment of the subject was limited to a fanciful sketch of the evolution of existing constitutions from his ideal form;[1] Aristotle devoted to it a whole book of *The Politics*, embodying an enormous mass of historical facts and a masterly exhibition of scientific analysis. The general trend of development, from royalty through oligarchy and tyranny to democracy, was explained by Aristotle as a concomitant of social and economic progress in Hellas.[2] A more specific determination of the sources of constitutional transformation was imperatively required, not only to complete the system of rational political speculation, but also to explain the chronic insurrection and revolution[3] which made the reality of Hellenic politics so different from the calm and orderly existence of the philosophic ideal. Indeed, the ideal doubtless took its character largely from the aversion which the violent and ignoble features of actual politics inspired in the reflecting mind.

The most general cause of revolutionary movements (στάσις) Aristotle finds to be the craving of men for equality. As already noticed, equality has

[1] *Supra*, p. 33. Aristotle's criticism of this part of Plato's work is unmerciful, and also to a considerable degree unfair. *Politics*, V, xii, 7–18. *Cf.* Jowett's notes *ad loc.*

[2] *Cf.* III, xv, 11–13; IV, xiii, 9–12.

[3] The political history of Hellas during the two centuries preceding the Macedonian conquest was, from this standpoint, not unlike the history of Latin America since 1800.

a double character — absolute and proportional. The masses are ever seeking for absolute equality — for the same privileges and power that are possessed by the few; the few strive for proportionate equality — for a superiority in privilege and power corresponding to their superior wealth or ability or birth.[1] By this one broad principle, thus, may be explained the manifold phenomena of the conflicts for the establishment of monarchy, aristocracy, oligarchy and democracy. Of the particular causes which are operative in revolutions the philosopher enumerates a large number, grouping them according as they lie more in the sphere of human passions (jealousy, arrogance, fear, *etc.*) or in that of impersonal facts. His remarks under the latter head exhibit his insight at its best, tracing, as he does, political transformation to obscure social and economic sources.[2] Particular stress is laid upon the fact that the causes of revolutions are to be regarded as quite distinct from the occasions. The latter may be, and often are, incidents of trifling character; the former are always profound. Thus the private quarrel of Harmodius and Aristogiton with the Pisistratidæ, while undoubtedly the occasion, was by no means the cause of the downfall of the tyranny at Athens.

These doctrines as to the causes of revolutions are applied by Aristotle to each of the special forms of

[1] But noble birth, he explains again, signifies merely inherited wealth and virtue. *Cf. supra*, p. 75, note.

[2] V, iii. For example, he notes how an oligarchy based on a property qualification may be converted into democracy by a mere rise in values. *Cf.* V, vi, 17.

constitution. Democracy, oligarchy, polity and aristocracy are subjected in turn to a searching examination, through which the manner of their undoing is laid bare.[1] This investigation duly sets forth the influences which produced the broad trend of government from monarchy to democracy, but at the same time explains all the manifold deviations from this general order. Democracy has not always been the last term of the series, but has often passed into oligarchy and tyranny. For both these transformations the demagogues have been responsible. In the early days the fighting demagogue, by posing as the friend of the people, made himself tyrant; in later days the talking demagogue, ever assailing the rich, drives them to oligarchic revolution in self-defence. More common, however, is the transformation of democracy from the more moderate to the extremest variety, through the conviction impressed by the demagogues upon the masses that the people are above even the law. Oligarchy, Aristotle finds, falls chiefly through dissensions and ambitions in the privileged classes themselves. Where the rulers are harmonious, he says, an oligarchy is not easily overturned. But this form of constitution may, like democracy, be transmuted, not into a wholly distinct form, but into another variety of itself; and this often happens. As to the mixed constitutions, aris-

[1] This investigation is an almost perfect example of the application of the historical method in political science. The facts adduced by Aristotle as the basis of his reasoning constitute a valuable body of sources for Greek history, and at the same time throw a rather lurid light on Hellenic politics.

tocracy and polity, revolutions may most often be traced to an inexact adjustment of the different principles which are combined in them. Aristocracy tends to become oligarchy, through the undue encroachment of the richer classes; polity to become democracy, through the undue aspiration of the poorer classes. Stability can be maintained only by proportionate equality and by giving to each his own. It is in these mixed constitutions in particular that transformations are apt to take place unnoticed, through the imperceptible modification of social and economic conditions.

Aristotle follows up his elaborate array of the causes that produce revolutions by an equally impressive array of means for preventing them.[1] The character of the particular causes suggests at once the character of the corresponding remedies. In the mixed constitutions especial care must be taken to detect the obscure beginnings of new conditions making for political change. In aristocracy and oligarchy the inferior classes must be well treated, and the principles of democratic equality must be strictly applied among the privileged classes.[2] The body of citizens interested in political stability must often be roused by the cry that the constitution is in danger.[3] No single man should be permitted to attain to power either suddenly or in a disproportionate degree. "Men," the philosopher reflects, "are easily spoiled, and not every

[1] V, viii.

[2] *E.g.* offices must be held for short terms, so that all may participate in them.

[3] V, viii, 8.

one can bear prosperity." Access to positions of power should be made gradual and slow, and undue influence on the part of any individual should be met, if necessary, by ostracism. In every state, further, the utmost care should be taken to exclude the officers from all opportunity of pecuniary gain. Especially important is this in oligarchy; for while the masses may be contented to leave political office to others and devote themselves to money-making, they will always resent being excluded from positions that bring not only honour but also profit. The surest way to satisfy both the classes and the masses is to throw the offices open to all, but without salaries. This will insure in practice the manning of the offices chiefly by the well-to-do. But every care must be taken, through public statements as to the condition and conduct of the finances, to inspire confidence that the treasury is not being exploited by the officials. It is desirable, moreover, that no class should have a monopoly of the offices. In oligarchy the poor, and in democracy the rich, should be encouraged to share in those administrative functions which do not affect the sovereign power.[1] This corresponds to the broad dictate of good policy, not to push to extremes the principle of any particular form. Extremes provoke resistance; the

[1] The qualities demanded by Aristotle in those who fill the supreme offices of the state are strikingly suggestive of Jefferson's triad of test questions. Aristotle enumerates: "(1) loyalty to the established constitution; (2) the greatest administrative capacity; (3) virtue and justice proper to each form of government." Jefferson asked: "Is he honest? Is he capable? Is he faithful to the constitution?" *The Politics*, V, ix, 1; Jefferson's *Works* (1854), IV, 405.

mean should be observed; for, whatever element may rule, all the other elements are valuable to the state. Finally, the most efficient of means for the preservation of the state from revolution is that which is in general the least considered — a system of education in the spirit of the constitution. Legislation is likely to avail little unless the youth of the city are trained to appreciate what is truly essential to the maintenance of their particular system. But this does not mean that oligarchic training is to involve merely what is agreeable to the wealthy, and democratic training what is agreeable to the masses. That would only emphasize the evils which already exist. For in oligarchies the aristocratic youth pass their time in idleness and profligacy, while the masses are left to toil and plot rebellion; and in democracies distorted notions of liberty and equality lead to license and to the overthrow of all constitutional restraint.[1]

Aristotle's discussion of the monarchic constitutions is particularly noteworthy for his finished exposition of tyranny as an art. Royalty, as a practical institution, is in his eyes only a more or less interesting survival from archaic times and conditions. It was essentially the unchecked rule of a supereminent individual or family over willing subjects. But with general enlightenment the preëminence of any one man has become impossible, and the passing of royalty cannot be prevented; for when the subjects cease to yield the monarch willing obedience, whatever absolute power he retains must rest on force, and he is

[1] V, ix, 15.

therefore no king, but a tyrant; and if, on the other hand, he submits to limitations on his power, he may remain king in name, but is no longer a monarch in fact. As distinct from royalty, tyranny is to Aristotle a political phenomenon sufficiently modern to demand the same scientific consideration as actual constitutions.[1] Of all the species of government it is as a rule the least permanent; therefore the causes which lead to its downfall require special attention. In general these causes are the same as those which operate in the extremest varieties of democracy and oligarchy. The inherent likeness of these forms to tyranny is, in fact, the theme of reiterated comment by Aristotle.[2]

To counteract the influences working against him and to maintain his power, the tyrant has, the philosopher points out, the choice between two diametrically opposite policies. That most commonly adopted is one of ruthless and unqualified repression: the best citizens are slain or banished; whatever makes for a noble and exalted life among the people is suppressed; association for intellectual or social purposes is forbidden; espionage renders dangerous all freedom of intercourse; vast enterprises, whether of peace[3] or of war, are devised to keep the people

[1] Tyranny was not a πολιτεία in the Aristotelian sense of the term. IV, viii, 2.

[2] *E.g.* "The people likes to be a monarch. Wherefore, the parasite is esteemed by both, . . . for the demagogue is the parasite of the people." V, xi, 12.

[3] Aristotle cites the Egyptian Pyramids, among other examples of this.

occupied and poor; and the tyrant himself, surrounded by a servile crowd of foreigners, lives a life of undisguised luxury and selfishness. The more rare, but in Aristotle's opinion the more effective, policy is that according to which the tyrant keeps a firm hold on the essence of power, but disguises the reality of the tyranny by the semblance, at least, of beneficent rule. The administration is ostentatiously economical; the public interest is made a subject of the ruler's grave concern; those who come in contact with him are inspired with respect, rather than with fear; he patronizes genius, shows constant respect for the things of religion and avoids all public displays of sensuality or luxury. It is essential to this policy, however, that the tyrant shall win a reputation for at least the military virtues; that he shall select his subordinates from men of plodding, rather than enterprising character; and that, while inspiring the rich and the poor with distrust of each other and confidence in him, he shall, when choice must be made between them, side always with the stronger.[1] In short, the characteristics of monarchic rule of this kind are that it be rather paternal than despotic, that it be based on moderation rather than excess, and that it be popular — winning the classes by friendship and the masses by the arts of the demagogue. On such principles the tyrant's rule will be better for

[1] Another and very famous dictate of policy suggested by Aristotle is, that all the rewards and honours of state should be bestowed by the ruler in person, while the punishments and disgraces should flow through other channels. V, xi, 26.

the subjects, will be more lasting, and will tend to have a beneficial influence on the character of the ruler himself.

8. *The Hellenic and the Universal in Aristotle*

The foregoing sketch of Aristotle's work should at least suggest the importance of the purely Hellenic elements in his political philosophy. His historical research went far beyond the confines of Hellas, but the system which he framed was determined in its most essential characteristics by the conditions that prevailed within those confines. The postulates of his thought, as of Plato's, were: the general superiority of the Greeks over other races; the inherent necessity and justice of slavery as the basis of social organization; the typical character of the city-state in political organization; the incompatibility of bread-winning pursuits with the moral and intellectual attributes of good citizenship; the supreme importance of state-directed education and training in the maintenance of political virtue; and, finally, the subordination of all personal motives and conduct to the dictates of law — conceived either as the purely impersonal and more or less mystic product of divine or natural forces, or as the formulated wisdom of some individual of almost superhuman sagacity.[1] In the course of the ages most of these ideas either

[1] Aristotle, while ascribing law in general to the slow working of custom, manifests at times the influence of the common Hellenic idea, that a perfect code may be, as it has been, projected into operation by an all-wise legislator.

have passed entirely out of consideration or have been so modified as to lose the significance which Aristotle attached to them. But when we look further into his philosophy, beneath the general outlines determined by these Hellenic dogmas, we find a long series of principles which are as ultimate as human nature itself, and which, in almost the exact shape in which Aristotle formulated them, are features of political science at the present day.

Prominent among these is the distinct and unequivocal conception of the ultimate problem of politics — the reconciliation of liberty and authority. The primary fact of the state he represents to be the distinction between rulers and ruled. That is, political organization is inconceivable without the submission of one human will to another. The anarchist's conception of liberty and equality, incompatible with this doctrine, is denounced by Aristotle. Describing the tendencies of extreme democracy, he says: —

> Equality is held to signify the rule of the majority, and liberty and equality to mean that each may do as he will. Hence, in democracies each follows his own inclinations. But this is evil. For life in subjection to the constitution is not to be regarded as slavery, but as the highest welfare.[1]

This view as to the relation between the individual and the state is duly supplemented by the doctrine as to the qualifications under which the personal authority in government is manifested. The most characteristic function of the officer is, indeed, declared to be the issuing of orders.[2] But above the officer he

[1] V, ix, 15. [2] IV, xv, 4.

insists must be the impersonal factors in the constitution — namely, public opinion and customary law. The latter force he describes with perfect clearness; the former, though less distinctly defined, is undoubtedly what he has in view in ascribing to the people as a whole the function of final judgment on official conduct and in defending the thesis that the opinion of the mass is preferable to that of the expert.[1]

In respect to the ultimate idea of sovereignty Aristotle discerns, rather than adopts, the theories of modern times. He realizes the importance of a determinate human superior, whose undoubted will is final; but he recurs again to the thought of a law controlling even this sovereign. He prefers that this ultimate human superior should be the whole people; but he qualifies this solution, first, by limiting it to a society in which the general level of virtue — *i.e.* of moral and intellectual attainment — is high, and second, by limiting the field of sovereign legislative activity to the region not previously occupied by law. Aristotle cannot, in fact, think of the sovereign as essentially legislator. The normal function of the supreme organ is administration; but, almost without being aware of it, the philosopher resigns the key to his whole position by assuming that it is the duty of the sovereign to legislate when on any point "the law is either inadequate or improper."[2] Nothing more than this was needed to justify the proceedings of the popular assembly in extreme democracy, which

[1] *Supra*, pp. 69–70.

[2] *Ὅσα δὲ μὴ δυνατὸν τὸν νόμον κρίνειν ἢ ὅλως ἢ εὖ.* III, xv, 6.

Aristotle wholly abhors; for the substitution of decrees of the assembly for law would be merely a judgment by the sovereign that the law was either inadequate or improper.[1]

The doctrine of *The Politics* as to the three elements necessary in the organization of constitutional government is another example of striking insight. In this case, however, the relation of his theory to the modern theory of the separation of powers may easily be mistaken. Aristotle distinguishes three essential organs, which he designates as the deliberative, that pertaining to the offices, and the judicial. Each of these has something in common with, respectively, the legislative, the executive and the judicial departments of modern analysis. But he contemplates no such distinction in respect to functions as has been made the basis of the latter. His deliberative organ is, indeed, legislative, but only to the extent indicated above — that, namely, of supplementing the preëxisting law; his officers are executive, but scarcely more so than the deliberative organ; and his judicial organ differs from the deliberative rather in constitution and procedure than in function.

Finally, the permanent and universal side of Aristotle's philosophy is peculiarly illustrated by the importance which he attaches to economic influences in political organization and activity. From the theoretical point of view the validity of private property is maintained, and from the practical point of view the eternal friction between those who have and

[1] *Cf.* IV, iv, 31.

those who have not is made to explain many of the most conspicuous phenomena of government. On this turn his classification of forms, his adjustment of administrative machinery, and, to a very large extent, his explanation of revolutions. And from this is derived that doctrine which has been so impressively confirmed by later history, that stability and prosperity are most to be found where extremes of wealth and poverty are unknown and the middle class is the strongest.

If *The Laws* of Plato leaves in one's mind the vague but unmistakable suggestion of an Atticized Sparta, *The Politics* of Aristotle leaves somewhat more distinctly the impression of a Spartanized Athens. This corresponds to the success of the later philosopher in combining in his thought the Hellenic and the universal. For no other Hellenic state was so universal as Athens. In both things material and things of the spirit she sounded the depths and crowned the heights of human nature. A genius peculiarly susceptible to Athenian inspiration must necessarily be in many respects as universal as humanity itself. Such a genius was Aristotle's, and such was the character of his philosophy. And hence it is that we find, in systems so diverse as those of military Rome, of the theological Middle Age and of the materialistic modern era, the essential features of political organization and activity explicable, and actually explained, on the lines of the Aristotelian analysis.

II

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CHAPTER IV

POLITICAL THEORY OF LATER GREECE AND OF ROME

1. *Political Extinction of Hellas*

When Aristotle died, 322 B.C., Alexander the Great had already been dead a year. But though the philosopher survived his former pupil, in none of his works as we know them is there any sign that he realized the significance of that pupil's astonishing career.[1] It was indeed less easy then than it is now to perceive that Hellas was politically extinct, and that the conditions which determined the character of Plato's and Aristotle's philosophy were to be henceforth of little or no consequence in the march of history. Through the conquests of Alexander and the partition of his dominion among his successors, the constitutional city-state was entirely overwhelmed by the absolute military empire as the type of political organization; and through the fusion of races and of culture that sprang from the new conditions, the pure and exclusive Hellenic character was gradually supplanted by the moral and intellectual type which we call Hellenistic. But for centuries after the

[1] Much ingenuity has been displayed by certain commentators in discovering allusions to Alexander and his work in *The Politics*. But all that have been adduced are, in fact, illusions of the critics, rather than allusions of the philosopher. See, for example, Oncken, *Die Staatslehre des Aristoteles*, Buch III, iv, *passim*.

Macedonian conquest government in many of the Greek cities continued to move in the forms of the classical era. From time to time, moreover, there arose conditions in which for a little while or in some degree these forms were imbued with real vitality. Especially in the Hellenic peninsula itself, which pertained to the least powerful of Alexander's successors, was this the case. And here developed and flourished for a time a constitutional system which seemed well adapted to counteract the particularistic tendencies of the Hellenic spirit. In the career of the Ætolian and the Achæan League, the principles of federal government were so developed and administered as to maintain throughout central Greece and the Peloponnesus for several generations a large degree of autonomy. But what availed against Macedon was not a match for the conquering power of Rome, and before the policy of this latter, federation went the way that the city-state had gone before. The complex constitutional organization of the Achæan League became, like the Athenian democracy and the Spartan oligarchy, a mere insignificant phase of local government in the imperial dominion of Rome.

The two centuries of social and political transformation that followed the death of Alexander were characterized by a steady decline in systematic political speculation. The spirit of the times was little favourable to philosophizing about government. In the kaleidoscopic changes attending the succession to Alexander's power the salient fact was the domina-

tion of military force, and of military force resting not upon any principle of popular organization, but upon mercenary service pure and simple. Empire building was the order of the day, and the welding of civilizations. In such a transition period political philosophy is wont to lose its bearings, and to await in silence the subsidence of the storm. When the turmoil has ceased and a new order has become established, philosophy reappears, with formulas adapted to the situation, and works out a system just in time to be overthrown by some new convulsion. Thus it was that from the rise of Alexander's empire to the establishment of Roman dominion in the East, political theory was practically dumb; Polybius and Cicero then explained the conspicuous fact of the *pax Romana* by a well-rounded theory, which the work of Julius and Augustus promptly deprived of all relation to reality.

In the lost Greek and Hellenistic literature of the third and second centuries before the Christian era there was doubtless much that treated of political topics.[1] But that the works lacked originality and influence is apparent from the character of the great philosophical systems which arose and flourished during that period. The schools of Plato and Aristotle sank into insignificance as compared with those of

[1] Cicero, *De Legibus*, III, 6, mentions with praise the works of Heraklides Ponticus, a follower of Plato, Theophrastus, an Aristotelian, Dio the Stoic and Demetrius Phalereus. To the writings of the last named, who had much experience in the government of Athens, both philosophic excellence and practical value are ascribed by Cicero, who then characteristically classes himself with Demetrius.

the Stoics, the Epicureans and even the Sceptics; and these three later schools, various as was their doctrine in other respects, agreed in minimizing the concern of philosophy with political affairs. To the problems of ethics they devoted especial attention, and they worked out elaborate codes of conduct adapted to the promotion of right living. But while Plato and Aristotle had found the key to the good life in a scientifically organized state, Zeno and Epicurus found it in absolute indifference to political conditions. The separation of politics from ethics was carried to the extreme, and the individual, overwhelmed in the state by the earlier systems, was by the later set to solve the problems of life in isolation.[1] The relation of this attitude of philosophy to external conditions is obvious. Public life in the Greek cities was fast losing importance. The springs of political action were to be found, not in the assembly or the council of a given city, but at the courts of the Macedonian, the Syrian and the Egyptian monarchs, and in the camps of the Roman consuls. Reflecting minds turned away from the consideration of constitutional forms which had no reality, and dignified the loss of political life by the theory that such life was irrational.

2. *Epicurean and Stoic Influences*

There were, however, certain features of Epicurean and Stoic doctrine that were destined to exercise

[1] *Cf.* Zeller, *Die Philosophie der Griechen* (Leipzig, 1880), Bd. 3, Theil 1, s. 19.

a considerable influence on the politics and on the political theory of later ages. Epicurus and his followers took cognizance of society and of the state, but only to emphasize the indifference of the philosopher in reference to them. Social and legal relations were explained as resting wholly upon individual self-interest, and upon the desire of each to secure himself against injury. Obedience to law, it was held, is rational only so far as law promotes this end. Justice has no existence in the abstract; it inheres merely in some convention for mutual advantage. The wise man will have no part in political life unless his interests imperatively require it. Such life is burdensome and incompatible with the repose of spirit essential to an ideal existence.

In these views we have a line of thought which had already been represented to some extent by the Sophists, and which was destined to gain great celebrity centuries later in the series of doctrines known as the contract theory of the state. The practical teaching of Epicureanism was that of submission to any form of political authority that was attended by peace and order. To the devotee of this school it was a matter of total indifference whether the quiet which he demanded was due to smoothly working constitutional government or to efficient despotism. Hence the Macedonian garrison was to him as good a political sovereign as any other. The suitability of such a philosophy to the life of Hellas after Alexander is self-evident. In Rome, under Augustus, analogous conditions prevailed, and there Epicurean indifferent-

ism found an attractive exposition in the genial exhortations of Horace.[1]

The influence of Stoic doctrine on later political thought and practice was of quite another character. This influence developed chiefly through the theory of justice and law. The Stoics conceived of nature in a pantheistic sense as the embodiment of supreme universal law. Justice they held to be immanent in nature — a form of universal reason, and therefore fixed and immutable. The ideal life was the life in conformity to this universal law. From the practical point of view such conformity was to be sought through the cultivation of the human reason, pure and simple. Those who through this process divested themselves of all influence of the emotions and of material conditions were alone worthy of imitation. They alone would attain the true goal of philosophy, and all such, regardless of external circumstances, would be as fellow-citizens of one great republic. Stoicism, in short, brought into prominence the fateful doctrines of natural law and cosmopolitism.

The latter doctrine had, indeed, been definitely enunciated by the Cynics, on whose teaching Zeno founded the Stoic school. But before the work of Alexander the Great had been achieved the soil was not favourable for the development of such an idea. When, however, the barrier between Greek and barbarian had been entirely broken down, in fact, when Athenian and Thracian and Asiatic and Egyptian had become actual members of one political system,

[1] In *Epist.* I, iv, 16, the poet avows his Epicureanism.

the value of civil and social distinctions on the basis of petty race and state lines faded away, and world citizenship, with all its far-reaching social corollaries became an acceptable doctrine to reflecting men. In its early form the idea had, of course, little practical significance. The qualifications for participation in the Stoic cosmopolis were as purely ideal and as absolutely unattainable as those of Plato's philosopher guardians. To some extent, perhaps, the dogma of world citizenship embodied the reaction of intellect against physical force: excluded by the reign of violence from influence in the actual political life of the day, philosophy conceived a republic in which reason and intelligence should have their own. In this sense cosmopolitism was wholly aristocratic. But the ethical doctrine of the Stoics tended always to take a practical form; and hence the democratic interpretation of world citizenship made great progress in the discussion of social duty. Cosmopolitism, in fact, expanded into humanitarianism. The dignity which at first was ascribed exclusively to men of especially exalted intelligence came to be ascribed, in theory at least, to all who possessed human nature. Such a tendency could not but produce very important results in a society based upon the institution of slavery.

It was under the sway of the Roman state that political and social conditions came to correspond most clearly to the Stoic ideals. Universal law and universal citizenship became practical facts. Primarily these results were due to the military and

administrative genius of the Romans, and were not in the least determined by abstract philosophy. In the constructive work of the Republic, Stoicism played no part. Its doctrines found a home only in the spirit of men like Cato the Younger, Cicero and Brutus, whose ideas were as impotent in the presence of Cæsar as Aristotle's had been in the presence of Alexander. But in the social adjustment during the stable days of the Principate, Stoic doctrines exercised a positive and far-reaching influence. Preached by Seneca, the chief minister of state, and Marcus Aurelius, the emperor, the universal brotherhood of man necessarily became something more than a sterile abstraction; and the conception of a law of nature and a principle of justice common to all men, became prolific in practical fruit when accepted and developed by Papinian, Paul and Ulpian, who were successively chief justices of the Empire, and whose opinions had the force of law throughout the civilized world. Christianity took over and adapted these doctrines, that were represented both in theory and in fact in the Roman Empire, and transmitted them, with the profoundest results, to modern times.

3. *The Constitutional Development of Rome*

The contribution of Rome to the literature of political theory was very slight, and its influence is in no way comparable to that exerted on later philosophy by her actual institutions. For this reason, as well as for a better understanding of the little contemporary theory that did appear, some consideration

must be devoted to the governmental organization through which her power was developed and maintained.

Rome made her appearance in history as a monarchic city-state. As a republican city-state she achieved her greatness; but in her decline she was in the fullest sense imperial and despotic. The royal period lasted from prehistoric times to about 500 B.C. The governmental organs were an elective king, with ultimate civil and military authority; an advisory council called the senate; and an assembly, the *comitia curiata,* whose chief function was the election of the king, and the formal bestowal of supreme and lifelong authority upon him. Political rights pertained to only part of the population, known as patricians; the remaining part, which before the end of the royal period had become the larger, was known as the plebs. The pressure of this latter element for some share in the government became strong under the later kings, and resulted in the organization of a new assembly, the *comitia centuriata,* in which plebs as well as patricians had a part. The purely patrician assembly, the *comitia curiata,* continued to exist.

In 510 B.C. Tarquinius Superbus was expelled from the state, and the Republican era began. For two centuries Rome's constitutional development turned chiefly upon the conflict between patricians and plebeians for control of the government. The ultimate result was the amalgamation of the two classes in a single body of Roman citizens enjoying entire equality in political as well as in civil rights. Before

this end was achieved, however, great changes were effected in the governmental organization. Upon the destruction of royalty, the power of the king, both civil and military, was vested in two annually elected officers called consuls. To the consulship only patricians were eligible, though the election was by the *comitia centuriata*.[1] In the course of time other patrician magistracies were established to share with the consuls the governmental power. The prætors took over much of the judicial administration, and the censors were clothed with the extensive authority incidental to the census and lustration. For great emergencies the dictatorship also played for a time a prominent part in the constitutional system. Plebeian policy was directed steadily to the attainment of eligibility to these magistracies, but at the same time the whole plebeian body developed an exclusive organization of its own, side by side with that of the other order. An assembly, the *concilium plebis*, adopted resolutions (*plebis scita*) which were recognized by its members as binding, and elected officers to conduct business under its direction. The chief of these officers was the tribune (*tribunus plebis*), in whom was recognized from the outset the right to intervene on behalf of the plebeians in the procedure of the patrician government, and to interpose an effective veto upon any consular act. Ultimately the plebeians attained the right to fill the great patrician magistracies, and the tribunate thus lost its

[1] At the outset this assembly was so organized, on the basis of wealth, that the patrician element was assured the controlling power.

primary significance. But the office remained, and, with the great powers which had become attached to it during the conflict of the orders, it played a most important part throughout the later history of the constitution.

With the amalgamation of the orders the plebeian assembly developed also into a feature of the regular constitution. When the distinction between patrician and plebeian vanished, the *concilium plebis* became the *comitia tributa*, which was, in the later days of the Republic, the most familiar law-making organ of the state. The *comitia centuriata* still remained the organ for the election of consuls; it also held them responsible for their conduct in office, acted as ultimate court of appeal in criminal procedure, and retained its original power to pass finally upon the questions of peace and war. The old *comitia curiata* gradually lost significance during the Republican period, and endured as a mere form in the transaction of unimportant religious business. The senate, on the other hand, continued to play a large part in the operations of the government. Originally a stronghold of the patricians, it retained to the end an aristocratic character. After the amalgamation of the orders its membership became limited practically to those persons who had held the great magistracies, and it thus embraced the most eminent and experienced politicians of the Republic. In theory its function was merely advisory; its resolutions (*senatus consulta*) lacked the technical character of law (*lex*) which inhered only in acts sanctioned in the

assemblies by the *Populus Romanus*. But certain departments of governmental business came to be controlled so exclusively by the senate that it was practically coördinate with the popular bodies. This was particularly the case after Roman dominion had been widely extended. Relations with foreign nations and with the subjects and allies of Rome were almost exclusively in the hands of the senate; and the same was true of the state finances and the regulation of social and political privileges.

During the two centuries of internal stress the Roman Republic maintained with difficulty its existence as against foreign foes. With the definite conclusion of the struggle between patricians and plebeians its aggressive career began. The problem of dealing with the peoples that fell one after another under Roman dominion was, from the legal and political point of view, well solved.[1] The development began with the subjection of the neighbouring Latin and Italian states. To such of these as were recognized as allies (*socii*), practically complete autonomy in local government was permitted. Where this was not expedient, local political rights were vested in a colony of citizens sent out from Rome, or in a single official called a prefect. The greatest burden of the subject peoples was the obligation to military service in the armies of Rome, but this burden rested upon

[1] The evils which distressed the conquered peoples and eventually revolutionized Rome were due to the reaction of conquest upon the moral character of the conquerors, rather than to any inherent viciousness in the provincial system.

Roman citizens as well. Participation in the government at Rome was of course limited to the latter; but a qualified citizenship known as the *ius Latii* was enjoyed by many of the allies, and, after an agitation that culminated in a serious revolt, practically all the peoples south of the Po were, in 90 B.C., admitted to full citizenship. This insured to the Italians certain nominal guarantees of rights of life and property from which they had been excluded before, and which, in the progressive corruption of Roman administration, had become apparently very desirable. But the demoralization of the assemblies at Rome by the enormous increase in the number of their members justified the reluctance with which the concession of citizenship was made.

Beyond the Italian peninsula the normal type of administration over conquered peoples was the provincial. Supreme civil and political power in each province was vested in a magistrate despatched from Rome and known in later times as proconsul or proprætor. During the Republican period Roman citizenship was not extended to the provincials, and the only guarantee against maladministration was the possibility of impeaching the magistrate at Rome upon the expiration of his term of office. When abuse of power in the provinces became flagrant and notorious, the social and political conditions at Rome were such as to render this procedure wholly worthless, and until after the Republic fell the condition of the subject regions was generally deplorable.

After the work of Julius Cæsar the Roman state

was essentially a military despotism. Till about 300 A.D., however, a considerable influence of ancient forms persisted and the monarchic character of the government was more or less disguised by the administrative activity of the senate. The transformation of the Republican constitution effected by Julius and Augustus consisted primarily in concentrating in a single individual, for his lifetime, the magisterial powers which had previously been diffused. The tribunician and the proconsular authority alone were sufficient to make Augustus and his successors supreme in Italy and the provinces respectively; but the functions of consul and censor were also assumed from time to time by the princes, with precedence over their colleagues in these offices. The senate, under the new system, remained an important factor in the government, and its resolutions (*senatus consulta*) became the normal form of legislation. But the *imperator*, as *princeps senatus*, exercised an important if not a decisive influence in determining its membership, and his proposition (*oratio*) was the usual source of important projects of law. The popular assemblies gradually ceased to have any significance. The last remnants of criminal jurisdiction were taken from them by Augustus; the election of officers — since Julius a mere form, carried out at the dictation of the prince — was transferred to the senate by Tiberius; and the ancient forms of legislation, through which the Roman people in the tribes or centuries for a time registered the will of the prince, ceased to be regarded by 100 A.D.

With the wide-reaching administrative reform effected by Diocletian and Constantine (*circ.* 300 A.D.) the connection with ancient ideas was to a great extent definitely dropped. The fiction that the monarch received his power from the Roman people, which the lawyers, at least, always maintained, was obscured by the theory that the imperial authority descended from heaven. In pagan times this idea had been cultivated by the attribution of a divine character to the monarch, and by his worship as a god. When Christianity became the state religion, this system was modified by regarding only the power and not the person of the emperor as partaking of divinity. He ruled, it was held, by virtue of God's will, and from him authority descended to all the officials of the state. Long before this development was completed at the apex of the system, the gradual extension of Roman citizenship to the provincials (completed by Caracalla at the end of the second century) had dissipated the vestiges of the city-state at the base. Practically the unification of citizenship throughout the state meant nothing at this time but uniformity in the manner of subjection to the monarch's will. But as a confirmation of the theories of cosmopolitism and universal law, it had an influence that has affected political philosophy to the present day.

4. *Polybius*

The political sagacity of the Roman people is abundantly attested, not only by the authentic his-

tory, but also by the treasured traditions, of their institutional development. In perfecting the system under which the Republic flourished, they manifested not only an exceptional military genius, which preserved their independence and extended their dominion, but also a remarkable sense of legal and constitutional expediency, which struck out a line of well-regulated conservative progress in their internal policy. Of broad speculation on political subjects, however, we have no evidence in the early days. No more in political than in other philosophy was the Roman character adapted to make its mark, and the general attitude of the early Roman mind toward the refinements of intellectual culture is doubtless very well reflected in the procedure of Cato the Censor, when he unceremoniously bundled the Greek philosophers out of the city. Rome was the strongest power in the world before any analysis of its government was attempted, and the beginning in this direction had to be made by a Greek. Polybius, held in Italy as a hostage of the Achæan League for sixteen years (167–151 B.C.), became intimately acquainted with the Roman constitution and the Roman statesmen of the day, and utilized his opportunities in writing the history of the great Republic. Incidentally to his narrative he paused to discover the essential principles of the system of government at Rome, in order to account thus for the dizzy height of power to which she had risen.[1] The result

[1] This excursus constitutes the major part of Bk. VI of his history, as it has come down to us.

of his investigation has had an important influence on later political theory.

Polybius premises the classification of governments set forth by Plato and Aristotle, and describes a normal cycle in which these different systems succeed one another in history. The starting-point is a condition in which the arts of civilization and the habits of social life are unknown. Such a condition, he thinks, is bound to recur from time to time, as the result of flood, famine, pestilence or other such calamity, by which the human race is reduced to a small and brutish remnant. These few, associating with one another by force of instinct, submit like other animals to the guidance of the strongest and boldest; and thus originates the earliest form of government — monarchy based on force. With the development of reason and the teaching of experience, the ideas of justice and duty assume prominence, and monarchic power comes to be regarded as based upon morality. Thus the natural despotism is transformed into royalty, and the monarch is properly called king. When the king ceases to regard justice and morality, he becomes a tyrant, and is supplanted in power by the virtuous leaders of the people, constituting aristocracy. This form in turn degenerates into oligarchy — the unjust and immoral rule of the few. Out of this arises democracy, which in its turn degenerates into ochlocracy, or mob rule pure and simple. The violence and excesses of the mob lead ultimately to the rise of a new despot, ruling by force, and the cycle begins its course once more.

Each of the three primary forms of government thus contains within itself the germs of its decay and ruin. To avoid the successive transformations which this fact makes inevitable, it is essential to combine in a constitution all the various forms, that each may counteract the subversive tendencies of the others. This method of insuring stability Polybius finds to have been characteristic of the Spartan system, and this he proceeds to exhibit as the mainspring of Roman greatness. But in the case of Sparta he attributes the employment of the principle to the genius and foresight of Lycurgus, who solved the problem of stability by sheer force of reason. The Romans, on the other hand, have reached, he thinks, the same result by gradually adapting their system to the lessons taught them by many difficulties and by great disasters.

In the Roman constitution, he points out, are to be found three organs, embodying respectively the principles of monarchy, aristocracy and democracy. In the consuls is monarchic power, the senate is essentially aristocratic, and the popular assemblies are clearly democratic. But in the working of the governmental machine the check and balance of the various elements is obvious. The quintessence of the consul's authority is his absolute military power without the city; but the senate controls the supplies for his armies, determines whether or not he shall retain command at the expiration of his term of office, and decrees or withholds the triumph, which is the utmost goal of his ambition; while the

comitia may hold him to account for his conduct, and may always, by its control over the questions of peace and war, effectively obstruct his military career. The senate has extensive administrative powers in the finances and in transactions with allies and foreign nations; but the popular assemblies can by law restrict the general authority of the senate, and any single resolution, or even the very assembling of that body, can be prevented by the simple veto of the people's especial representative, the tribune. Finally, the assemblies are subject to a restraint on their activity, first, because the senate controls all contracts for public works throughout Italy in which very large numbers of the people are interested financially, and from the senators are drawn the juries in most lawsuits; and second, by the fact that every citizen is likely to come sooner or later, as a soldier, under the absolute power of the consul. Hence arises an indisposition to reckless opposition to the projects and authority of the senate and the consuls, for fear of reprisals.

This analysis of the Roman system falls a little short of perfect symmetry,[1] and might be questioned on some points of fact. It is interesting in the history of theory as the first formal exposition of the principle of check and balance in constitutional organization. Both Plato and Aristotle had approved the combination in one system of the principles peculiar to the various simple forms.[2] But

[1] No check of the senate by the consuls is mentioned; but the text contains many gaps.

[2] *Supra*, pp. 39–40, 75, 79.

their suggestions look to the employment of these principles in the constitution and operation of organs which should express but a single concrete form. Thus Aristotle's polity is in essence a democracy, though the part played by the sovereign people is regulated by aristocratic methods, such as election rather than lot in the choice of officers. Polybius, on the other hand, conceives of a mixed constitution as expressed in the existence of three organs, embodying each a distinct principle and acting through self-interest as restraints upon one another. In the earlier philosophers the instability incident to a simple form was to be obviated by a blending of principles; in Polybius the same end was sought by a reciprocal antagonism of organs. Both devices have been recognized in theory and in practice in all later ages, but it is the latter, rather than the former, that has the greater affinity with the modern notion of check and balance among the three departments of government.

5. *Cicero*

The work was hardly finished wherein Polybius so wisely determined the principles which insured the stability of the Roman constitution when the agitation of the Gracchi inaugurated the turbulent era which ended in its destruction. The check and balance system works through deadlock between the different organs. In normal conditions the deadlock is broken by mutual concession and compromise; but in times of social tension it is always likely to

be broken by force. The latter became the rule during the last century of the Roman Republic. Economic transformation due to the extension of its dominion divided the Roman people into two great classes, the wealthy nobles and the pauperized commons, as antithetic as in ancient days had been the patricians and the plebeians. These hostile classes found in the senate and the assemblies their respective representatives, and the recurring deadlocks between the organs were broken by civil war. During the period in which the politics of Rome turned upon the projects of the Gracchi, of Marius and Sulla, of Pompey and Cæsar, political speculation could not be expected to flourish. Only in Cicero was found enough of the philosophic temperament to seek rational props for the constitution which he saw falling in ruins. His two works, *De Republica* and *De Legibus*, were designed to recall the Romans to the old methods of working their government. The effort was as noble as it was Quixotic; the works embodied all the most admirable qualities of the writer's thought and diction; but they had no effect at the time, and while they profoundly influenced imperial lawyers and early Christian writers, they have come down to the present day in so fragmentary a condition as to perplex and irritate rather than enlighten the student who seeks to use them.

The practical purpose of Cicero's writing is not disguised. In the *De Republica* he seeks to set forth the conception of an ideal state as Plato had done in

his greatest work. The Platonic dialogue is employed as the form of the treatise, with Scipio taking the part of Socrates as the chief disputant. But Cicero makes no attempt to rival the Greek in evolving a fanciful polity that has no relation to the actual life and nature of man. On the contrary, he avowedly confines himself to the consideration of the Roman state and its history as illustrating and embodying the ideals of political science.[1] He assumes the essential idea of "state" to be "commonwealth," and formulates the fundamental conception of his philosophy as follows: —

> The commonwealth is the wealth of a people; understanding by a people, not every group of human beings however brought together, but a multitude united by a common sense of right and by a community of interest.[2]

The primary cause of union he finds in the social instinct of men, rather than in any consciousness of weakness in isolation; and that same instinct leads to the institution of government, in order that the unity may be preserved. Of the three primary forms of government, royalty, aristocracy and democracy, he considers that each possesses certain advantages, but embodies at the same time the germ of cor-

[1] *De Republica*, II, 11. Cicero here congratulates himself on having devised a method superior to any exhibited "in Graecorum libris."

[2] "Est respublica res populi; populus autem non omnis hominum coetus, quoquo modo congregatus, sed coetus multitudinis iuris consensu et communione utilitatis sociatus." *De Republica*, I, 25. In the next section, Cicero apparently distinguishes between "respublica" and "civitas": "civitas, quae est constitutio populi . . . respublica, quae ut dixi populi res est. . . ." But the distinction is not adhered to in what follows, and the two terms are used interchangeably.

ruption, which produces a cycle of revolutions.[1] To counteract this tendency a mixed form is necessary, combining the advantages of all three simple forms, but avoiding their weaknesses. This conclusion, precisely that of Polybius, is followed by an elaborate exposition of the constitutional development of Rome, so conceived as to emphasize the necessity of check and balance, and to represent the fully matured Republican system as a perfect example of the mixed form.[2] Monarchy, he shows, was discarded because the king became the tyrant; the patrician aristocracy, overbearing in its monopoly of power, was forced to yield to the restraint of plebeian elements in the system; and Cicero is too much of a conservative politician not to indicate that the troubles of the state since the Gracchi have been due to an exaggeration of democratic influences.

That the thought of Cicero follows very closely the suggestions of Polybius cannot be denied. But to conclude that the Roman made no contribution to political science beyond that of the Greek, is a step hardly warranted by the facts. The fragments of the work *De Republica* are altogether too scanty and disjointed to form the basis for a just estimate of Cicero's thought. They contain much to warrant the judgment that his idea of check and balance was less mechanical than that of Polybius — that the equipoise to be sought was rather that of force, influence and liberty, as principles, than of magistrates, senate

[1] *De Republica*, I, 29.
[2] *Ibid.* Bk. II; *cf.* especially II, 39.

and assemblies as organs.[1] Whatever the precise truth on this point may be, there can be no doubt that in the border region where ethics, jurisprudence and politics meet, Cicero performed a work which gives him an important place in the history of political theory. This work was, the development and practical application of the concept, natural law.

As has already appeared, the doctrine that the principles of right and justice were eternal and immutable had been a cardinal feature of Plato's ethics, and had been adopted by the Stoics. In Plato the doctrine had largely a metaphysical character and import. By the Stoics it was made a concomitant of their pantheistic conception of nature as supreme universal law. Cicero, following the trend of Plato's later thought, found for eternal justice a source in the providence of the gods, conceived not as identical with, but as the creators of, nature; and on the other hand, following the trend of later Stoic thought, he brought the dictates of abstract and universal reason and law into immediate relation with the activity of concrete human reason and of civil legislation.

In Greek philosophy the distinction between right (δίκαιον) and law (νόμος) had been recognized, but right had been regarded as in source and content antecedent to and largely independent of law. In the term "right" were embodied, in fact, two dis-

[1] *Cf.* II, 33: Nisi aequabilis haec in civitate conpensatio sit et iuris et officii et muneris, ut et potestatis satis in magistratibus et auctoritatis in principum consilio et libertatis in populo sit, non posse hunc incommutabilem rei publicae conservari statum.

tinct concepts: first, that of abstract goodness or righteousness; and second, that of an aggregate of privileges pertaining to a definite individual or group of individuals — a sense best expressed in English by the collective plural, "rights." Greek philosophy had busied itself chiefly with the first of these concepts, while the tendency among the Romans was toward primary interest in the second. Under the influence of this tendency Cicero reversed the earlier Greek conception of the relation between law and rights, and proceeded to make right (*ius*) in every sense subordinate to and dependent upon the idea of law (*lex*). His argument is as follows:[1] All nature is ruled by God.[2] Man is the highest of created things; through the possession of reason he is distinct from other creatures and like the Creator. By virtue of the divine element in human nature, man participates in the ultimate principles of right and justice, which are merely elements of the law by which God rules the universe. Further, all men possess by nature the consciousness of those principles; for all men are alike rational. The oneness of human nature is absolute; "no one is so like to himself as all are like to all," though evil habits may bring apparent diversity. But "to whomsoever reason is given by nature, so also is right reason; hence also law, which is right reason in commanding and forbidding; and if law, also right; but reason is

[1] This argument is the subject of *De Legibus*, Bk. I.

[2] Cicero used sometimes the plural (I, 7), but generally the singular of *deus*.

given to all; therefore right is given to all."[1] Thus the law of nature (*lex naturalis*), or law pure and simple, is the source and limit of all rights, even the natural rights (*ius naturale*). As against this doctrine there is no validity in the contention that human rights are based on shrewd calculations of interest, or that the wide diversity in institutions and laws among the nations of the earth indicates a real diversity in right and justice. Law in the true and ultimate sense is eternal wisdom, ruling the world. Among men it is the rational dictate of the sage (*sapientis*) as to what is to be commanded and what forbidden. The local and temporary enactments of the peoples are called law (*lex*) only by courtesy; and enactments contravening natural morality have no claim to the name.[2]

From the standpoint of exact logic, this demonstration leaves something to be desired; the concept "nature" is nowhere closely defined, and the word is used in several senses;[3] while Cicero manifests at critical points the orator's tendency to drop from reasoning into rhetoric.[4] But the circumstances of the ages following his lifetime conspired to give to his writings a wide influence. It was not, however, till fifteen centuries after he wrote that a practical appli-

[1] Quibus enim ratio a natura data est, iisdem etiam recta ratio data est, ergo et lex, quae est recta ratio in jubendo et vetando; si lex, ius quoque; et omnibus ratio; ius igitur datum est omnibus. — I, 12.

[2] *De Leg.* II, 5.

[3] In *De Leg.* I, 7–12, this term is used to denote (1) the universe as created; (2) the forces of the physical world; (3) the creator of man; and (4) several concepts that defy concise definition.

[4] *E.g.* I, 18.

cation was attempted of his doctrine that an enactment that contravened the law of nature had no force as law.

In his work *De Legibus*, the discussion outlined above is designed as the prelude to a detailed exposition of a code, constitutional and civil, that shall conform to the principles of the law of nature. But the three books[1] which we have are little more than a commentary on certain religious and political institutions of Rome. The eternal and universal law of nature proves to be thus simply the law of Rome, with certain modifications designed to render more easy the triumph of Cicero's party in current politics. The circumstances under which the great orator lost his life surround with an air of pathos his efforts to find the elements of rational perfection in the moribund institutions of the Republic.

6. *The Imperial Jurists*

It was through the private law of the post-republican centuries that the juristic conceptions which Cicero discussed first became actually fruitful. When political life was extinguished outside the palace of the prince, the aptitude of the Roman character for government found a field for activity in the adjustment of non-political relations throughout the great dominion. The particular historical work of the Principate was the welding of all the heterogeneous elements of the civilized world into administrative unity. In the course of this work the juristic genius

[1] The work is incomplete; six books were contemplated in the plan.

of the Romans rose to the climax of its brilliancy and evolved that body of principles which constitutes to-day the basis of European law.

Under the Republic the private law of Rome was twofold in character, including the *ius civile* and the *ius gentium*. The *ius civile* was the body of rules in accordance with which were determined the property and family rights of Roman citizens; the *ius gentium* applied to non-citizens, that is, to resident aliens and to subjects. The *ius civile* was based on the code of the Twelve Tables, which, through the conservatism of the Roman mind, was rarely subjected to legislative amendment. In the *ius gentium* on the other hand, were embodied not only the principles of natural equity which developed, with growing enlightenment, at Rome itself, but also the customs and legal ideas of foreign and subject peoples; and the Roman magistrate (*prætor*), in applying the law, was at liberty to modify its doctrines with no restriction save his own sense of justice. The Twelve Tables were the product of a period (450 B.C.) at which Roman social development was relatively slight and legal concepts and conditions were very primitive. As the city grew and the relations of civil life became complex, the *ius civile* tended to fall behind the requirements of the times. This was made conspicuous by comparison with the *ius gentium;* for in the latter, especially after the conquests east of the Adriatic, were incorporated the principles and usages of a highly refined society. The disadvantage under which the Roman citizen

often found himself in business enterprises as compared with the alien or provincial had produced, before the fall of the Republic, a tendency toward the fusion of the two bodies of law. Under the Principate this tendency was greatly fostered by the centralization of administration and judicature at the court of the prince. For the determination of appeals that came up on points of law from all parts of the dominion the rulers gathered about themselves the best of the jurists in which Rome was for three centuries very prolific, and from the opinions of these men the Roman law received the character which is expressed in the great code of Justinian.

The scientific work of the jurists was to systematize and to blend into harmonious unity the *ius civile* and the *ius gentium*. Under the latter head were included all the various systems which, by the edicts of successive prætors, had developed in the court for aliens at Rome and in the provinces. Out of this enormous mass of most diverse local and racial customs and ideas, the jurists were called upon to determine which conformed to the general principles that should be applicable to the whole Empire. This task called for the profoundest consideration of the ultimate nature of rights and justice. The greatest of the jurists were of Stoic tendencies, and hence we find at the basis of their work the characteristic doctrines of the Stoic philosophy. Dealing, as they were, with the practical affairs of the whole civilized world, the conception of a universal law and of the brotherhood of man took on a character of concrete-

ness that it wholly lacked in the days of the early Stoics and even of Cicero.

In the philosophy of the jurists rights (*ius*) rather than law (*lex*) was the basal concept, and Cicero's *lex naturalis* received scant consideration as compared with the *ius naturale*. The latter, natural rights, assumed great prominence, and its character and content were elaborately determined. Because the ideas and usages of the many peoples subject to Rome were found to have much in common, the *ius gentium*, or totality of these ideas and usages, came to be regarded as identical with the *ius naturale*, and as an actual embodiment of that natural reason, which was the chief element in natural right. When the man whose opinion was law for the Empire declared, in treating of slavery, that "so far as pertains to natural rights, all men are equal,"[1] or that "by natural law all men are born free,"[2] or that "slavery is an institution contrary to nature,"[3] the practical tendency of Stoic doctrine in social matters was made very clear. These dicta had, indeed, nothing whatever of the political significance that long afterward became attached to them. But they gave great definiteness to the idea of natural rights; and when the formulas embodying this idea were introduced with Justinian's code into the jurisprudence of modern Europe, the extension of their application was as normal a process as that through which they were originally created.

[1] Ulpian in Digest, L, xvii, 32.

[2] *Institutes of Justinian*, I, ii, 2.

[3] Digest, I, v, 4: Servitus est constitutio iuris gentium qua quis dominio alieno contra naturam subiicitur.

How foreign to the Roman jurisprudence was any political suggestion in the theory of natural rights, appears clear from the doctrine as to the supreme legislator. Universal reason was the source of rights (*ius : ius naturale*), but the will of the prince made law: "Quidquid principi placuit legis habet vigorem." [1] In the days of the Empire the actual conditions left no doubt as to whether universal reason or princely will took precedence in practical affairs. The case was not so clear in the ages when Justinian's code was the common law of Europe, and in all controversies as to the relations of prince and people, the dictum touching the supremacy of the monarch in law was as diligently quoted on the one side as were those touching the liberty and equality of men by natural right on the other.

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CHAPTER V

THE DEVELOPMENT OF MEDIÆVAL INSTITUTIONS

1. *Christianity in the Declining Roman Empire*

From the standpoint of political philosophy the cardinal fact of mediæval history is the establishment of the Christian religion throughout and even beyond the confines of the Roman Empire, and the development of the Christian church. The governmental institutions of Rome were transformed, in the East by the subtle and slow-working influence of the Hellenistic spirit, in the West by the violent impact of the Teutonic nations. But in the one region as in the other Christian doctrine and ecclesiastical authority furnished the principles which dominated all conscious reflection. The astounding bankruptcy of Græco-Roman culture, manifest centuries before the political extinction of Rome, left no intellectual resource for the times of turmoil, and Europe relapsed into despairing faith and ignoble superstition. The Middle Age was unpolitical. Its aspirations and ideals centred about the form and content of religious belief. The political institutions which ultimately developed out of the wreck of the Roman Empire received their characteristic impress from this fact. And when, in the renascence of intellectual life, political speculation revived, the problem which demanded almost exclusive attention was that

of disentangling the state from the church. Mediæval political philosophy is in fact exhausted when it has propounded a theory as to the relation of secular to ecclesiastical authority.

The growth of Christianity during the first three centuries of its existence is from every point of view an astonishing phenomenon. Originating in an obscure region of the Empire, among a despised and persecuted people, the creed and ritual of the Christians had become by the beginning of the fourth century the religion of the most influential classes of the Roman world. Adopted by Constantine as the official creed of the state, it easily triumphed over the expiring forces of paganism within the Empire; and through the zeal of its adherents it won its way to extensive authority among the Teutonic peoples who were soon to rend the imperial dominion into fragments. Prior to the conversion of Constantine, the organization of the Christian communities — the church — was determined partly by the democratic conditions of the early days of the faith, and partly by the traditions of the apostolic succession. The positions of oversight and authority in the management of the affairs of each community were filled by the formal or informal choice of the believers, while in respect to the general interests of all particular deference was paid to the counsels of those churches which, either through the tradition of apostolic foundation or through the size and importance of the cities in which they were situated, had a position of marked

prominence. On both these grounds the Roman church and its bishop enjoyed from the earliest times a distinct preëminence. After Christianity became the state religion many circumstances conspired to hasten the complete and precise adjustment of the ecclesiastical organization. But the decisive authority in questions touching this matter was, under the new conditions, the Emperor. Councils of the church passed upon questions of creed and of organization, but it remained with the imperial authorities to confirm and execute the anathemas against recurring heresy or the decisions as to conflicting claims of power and precedence. For good or for evil the church was in politics.

The century and a half between the reign of Constantine and the fall of the Western Empire was characterized by a general increase in the power of the ecclesiastical as compared with the political hierarchy. To this end conspired the weakness and incapacity of most of the emperors, the commanding ability of many of the bishops, the attractiveness of Christian hope in the midst of universal social decay, and the frequent exemption of religious institutions, whether through reverence or contempt, from the devastating fury of the barbarian invaders.[1] This was the age when Ambrose, Bishop of Milan, defied the authority of the weak Valentinian wishing to install Arianism in Milan,[2] and by exclusion from

[1] Hodgkin, *Italy and her Invaders*, Vol. I, Part II, p. 796.

[2] The practical worldly wisdom of Ambrose appears clearly from an incident in this affair. His refusal to deliver up a church of his

the eucharist brought the powerful Theodosius to submission and repentance; when Augustine, the Bishop of Hippo, gave to Christian doctrine the moulding force of his able and prolific pen, and promoted his views by the subtler methods of influence at the imperial court;[1] when Jerome propagated by precept and example the monastic ideas which contributed so much to the upbuilding of Christianity in a despairing age; and when Leo, Bishop of Rome, won for his faith and for his see the gratitude and homage of civilized men by staying the hand of the dreaded Hun, when it was about to be laid in wrath upon the Eternal City.[2]

After the extinction of imperial authority in the West the church remained the only efficient representative of Roman ideas in the barbarian monarchies that grew up in the ancient provinces. Legal and political institutions were subordinated or adapted to the customs and traditions of the Teutons, but the forms and content of ecclesiastical authority were in great measure left intact. Until the fusion of the races had made much progress, the chief dignities of the church were held almost exclu-

see to Auxentius, the Arian appointee of the Emperor, and his vigorous denunciation of the imperial policy, gave rise to serious popular tumults on the part of his adherents in the city. He was urged by the civil authorities to allay the excitement. This he refused to do, saying: "in meo jure esse ut non excitarem; in Dei manu ut mitigaret." Epist. xx of Classis I in Migne, *Patrologia Latina*, Vol. XVI.

[1] *Cf.* Milman, *Latin Christianity*, I, 170 (N.Y. 1862).

[2] That Attila's withdrawal was due exclusively to the action of Pope Leo, is by no means so clearly established as is the fact that such was universally believed to be the truth.

sively by Romans, and the far-reaching effects of this fact may be readily imagined when it further appears that from very early times the bishops constituted a recognized element in the legislative and administrative order of the Teutonic kingdoms.[1] Religious conviction or emotion played a large if not a decisive part in the career not only of the short-lived polities of the Vandals, the Burgundians and the Ostrogoths, but also of the more permanent monarchies of the Visigoths and the Franks. From the chaos of the conflicts in which these peoples were involved the Christian church, though barbarized in creed and in practice, emerged with its organization strengthened and its prestige, if not enhanced, at least still unimpaired.

In the East the persistence of the Roman authority preserved the ancient relation of church and state. The faith escaped the brutalizing influence of unintellectual barbarians, but suffered from the curious refinements of the super-intellectual Greeks. Heresies swarmed forth from the East and gave hardly less occupation to the imperial authorities there than the barbarian invaders gave to the rulers of the West. But the unbroken continuance of the power at Constantinople left no such opportunity for the development of ecclesiastical independence as was afforded by the fall of the Empire in the West. The Eastern church remained in the closest connection with the imperial court and suffered the decadence that affected the imperial power. After

[1] *Cf.* Milman, *op. cit.*, I, 524 *et seq.*

Mohammedanism in the seventh century all but overwhelmed Christianity, the dependence of the ecclesiastical on the secular arm was riveted by the impact of the common foe, and church and state were indistinguishably blended.

2. *Rise of the Papacy*

The decline of imperial authority in the West had a great if not the decisive influence in exalting the Bishop of Rome to formal primacy in the church. At the conversion of Constantine the Roman bishop became at once, by virtue of his proximity to the court, the chief adviser of the Emperor in ecclesiastical affairs, and the intermediary through which questions affecting the church in all parts of the Empire were submitted to the judgment of the sovereign ruler. The removal of the court to the shores of the Bosphorus tended somewhat to relax the bonds which held the great Eastern prelates at Antioch, Alexandria and Constantinople in submission to the Roman pontiff, but throughout the provinces of the West — Gaul, Spain and Africa — the prestige of the popes remained unaffected. The chief theoretical basis of Roman precedence was the foundation of the see by Peter, whose preëminence among the Apostles was universally recognized. To this was added the claim that the provincial churches in the West had been established under the auspices of Rome and therefore owed to the Roman bishop the allegiance due to metropolitan authority. At the time when the strife between Arianism and Orthodoxy was convulsing the

church and the Empire, the Council of Sardica (347 A.D.) formally assigned to the Bishop of Rome appellate jurisdiction over the decrees of other bishops. This recognition of Roman primacy by ecclesiastical authority was reënforced in the next century by the sanction of the supreme political power. Valentinian III, Emperor of the West, constituted the Bishop of Rome the legal court of appeal for ecclesiastical causes from all parts of the dominion, and declared his supremacy over all other bishops.

But the official sanction of papal authority was more a symptom than a cause of Roman primacy. From the beginning of the fifth century great pontiffs, like Innocent I and Leo I, asserted the authority of Rome in ecclesiastical controversies with marked ability and success; and the effect of their policy was enhanced by the commanding distinction of the bishop in the civil affairs of the city when the imperial régime was overthrown by the barbarians. During the Herulian and Ostrogothic dominion in Italy the Roman see was the mainstay of Orthodoxy against the Arianism of the rulers. The wars through which the Gothic power was broken, and Italy made an integral part of the Eastern Empire, wrought great havoc in the whole social order of the contested realm, and especially of Rome itself. Scarcely was the ruined land reduced to tolerable quiet, when the Lombards descended from the north and devastated anew the whole peninsula. The authority of the Emperor at Constantinople was

hopelessly inadequate to the task of defending Italy. When the Lombards appeared before Rome Gregory the Great was on the papal throne, and upon him fell the task of making formal terms with the besiegers.

The pontificate of Gregory (590–604 A.D.) marks fairly well the transition in the character of the Papacy. From that time the political affairs, at first of Rome and then of all Italy, became a definite charge upon the attention of the popes. For a time the suzerainty of Constantinople and the authority of its Exarch at Ravenna were sedulously recognized. But when to the encroachments of the Lombards in Italy were added, in the seventh century, the triumphant assaults of the Mohammedans in the East, the interest and influence of the imperial court in the city of Rome became infinitesimal. Ecclesiastical causes also contributed to the severance of relations between the old and the new Rome. Inspired by his close connection with the court, the Patriarch of Constantinople laid claim from time to time to a preëminence over all other authorities in the church. This pretension, which received some measure of imperial recognition, was bitterly resented by the popes, and confirmed their tendency to independence in political affairs. Finally arose the great controversy over image-worship, through which were brought to a crisis all the divergent tendencies of Greek and Roman Christianity. The church was severed in twain and the Roman pontiff, followed by all the West which Mohammedanism had not

overrun, stood isolated, ecclesiastically as well as politically, from the authority of the East.

Upon the extinction of the Exarchate of Ravenna by the revolt which followed the iconoclastic decrees of Leo the Isaurian and his successors, the city of Rome, of whose interests the Pope appears as the exclusive guardian, was left entirely exposed to the aggressive tendencies of the Lombard kings. To the attempts of these rulers to incorporate the city within their domain the popes opposed the most resolute resistance, and, in despair of success, summoned to their aid, in the name of St. Peter, the powerful Franks. Both Charles Martel and his son Pippin responded to the summons, and the latter not only drove the Lombards from the ecclesiastical estates which they had occupied, but also conquered the remainder of the territory formerly held by the exarchs and bestowed it upon the Pope. Thus the Papacy became formally, what it had long been in fact, the holder of political power. Of equal significance in respect to the position of the popes was the act of Zacharias in sanctioning the usurpation by Pippin of the royal power among the Franks, and that of Stephen in performing the ceremony of coronation and unction through which Pippin's usurped dignity was confirmed (754 A.D.). When, after half a century of successful expansion, the Frankish kingdom had been developed into the great dominion of Pippin's son, Charlemagne, the coronation of the latter as Emperor by Pope Leo III (800 A.D.) scarcely made more definite than before

the exalted position of the Roman see in European politics.

The weakest point in the Pope's political position was his relation to the population of Rome. From the days of the old Empire the choice of a new bishop had frequently been the occasion of popular tumults and bloodshed. The transition to mediæval conditions brought the office under the control of the powerful noble families who divided the city among themselves. With the growth of political influence in the Papacy, the contests among these families for possession of the dignity became more and more intense and bitter. While all Western Europe looked with reverence upon the Pope, he was himself, in many cases, the mere puppet of some unscrupulous Roman noble. During the tenth century the personal character of the popes reached a very low level from this cause, and an inevitable reaction was manifest upon the authority of the Papacy. This source of weakness was in a measure removed by the reform of 1059, when, by act of the second Lateran Council, the chief power in the election of a pope was vested in the cardinals — a definite body, presumably characterized by the most eminent sacerdotal virtues. This reform was but one of a series that included the enforcement of celibacy among the clergy and the stringent proceedings against simony which precipitated the struggle over investitures. The Hildebrandine epoch had arrived — the epoch in which great popes, from Gregory VII to Innocent III, brought the dignity and power of their

office, from both the secular and the spiritual point of view, to the utmost limit of exaltation.

3. *Rise of the Mediæval Empire*

The prestige of the Papacy was closely paralleled by that of its great secular rival, the Holy Roman Empire. This institution, whose career embodies a political summary of the Middle Ages, had its origin in the Frankish monarchy, which, founded by Clovis on the soil of Roman Gaul, was expanded to truly imperial dimensions three centuries later by Charlemagne. The Franks were converted to Christianity in the time of Clovis, and stood alone among the barbarian invaders as Orthodox instead of Arian in faith. Their institutions expressed most faithfully the characteristics of Christianized Teutonism. Nowhere more strongly than in Gaul, under the Merovingians, did the church impress itself upon the political and social order. In both the councils of the royal court and the humbler concerns of town and provincial life, the bishops and abbots wielded a commanding influence. Early in the eighth century the royal line was supplanted in power by the East-Frankish family, later known as the Carolingians. The genius and valour of Charles Martel won the applause of trembling Christendom by setting a final bound to the sweep of Saracen conquest in the West. To the victorious Frank it was natural that the Pope should turn for support against the threatening Lombards; and a favourable response to the Pope's appeal was clearly dictated not only by the religious

sentiment but also by the political aspirations of the ambitious ruler. Hence arose that *entente* through which Pippin became, with the papal sanction, King of the Franks, and Charlemagne, after adding the Lombard domain to his possessions, received from the Pope the insignia and title of Emperor.

To the chief participants in that famous coronation in St. Peter's on Christmas day, 800 A.D., the significance of the ceremony was quite destitute of the subtlety which was ascribed to it by the controversial ingenuity of later days. That Charlemagne supposed he was receiving from the Pope a grant of political authority of any sort whatever, is impossible; that the Pope supposed that he was granting such power, is very improbable. By his military and administrative genius the Frankish monarch had extended his sway over a territory fairly commensurate with that of the ancient Empire in the West; his conquests had consistently promoted the cause of Christianity against both the Saracen and the pagan; having become the possessor in fact of imperial authority, he received from the Pope, through the rites long customary in Christian lands, formal recognition as successor of the early emperors. Through this act, however its significance may have been misinterpreted, the relation of Teutonic politics to Latin Christianity assumed a public form that was destined to produce extraordinary results. The embodiment of these results is the history and the theory of the Holy Roman Empire.

Charlemagne's empire fell to pieces within less

than half a century of his death. The territory that he had ruled was divided into independent kingdoms. But throughout the anarchy of this process the idea of an empire and of an emperor survived, and of an emperor whose authority would be formally complete only after coronation by the Pope at Rome. The persistence of this idea was promoted not only by papal policy, which sought the support of superior power against the Italian princes, but also by the ambition of every ruler who, having succeeded to some share of Charlemagne's dominion, could hope to claim the whole. In 962 Otto I, the German king, a monarch whose character and achievements justly won for him the epithet of "Great," added Italy to his possessions and received or extorted from the Pope recognition as Emperor. With the coronation of Otto begins definitely the history of the Holy Roman Empire.

From the purely secular point of view this history is concerned with the long struggle of German kings to maintain the imperial unity of Germany and Italy.[1] The varying phases of the struggle turn chiefly on three facts: first, the thoroughly feudalized character of the royal power in both Germany and Italy; second, the racial antagonism between the Teutonic and the Latin populations; and third, the enormous development of ecclesiastical and especially of papal power. The feudal conception of royal power hopelessly hampered the efficiency of the

[1] The western portion of Charlemagne's empire stood apart from this struggle, and developed independently into the French monarchy.

monarch's action; the dislike of the Italians for everything German, which to them was synonymous with barbarian, was a constant stimulus to seditions and revolt; and the tortuous policy of the popes, who ruthlessly employed their power to insure that the Emperor should be their ally but not their master, raised up in both Germany and Italy obstacles which ultimately proved fatal to the development of a really imperial system. For a century after the great Otto, the German monarchs preserved a fairly strong hold on Italy and asserted their ancient control over the Roman see. But then arose Hildebrand, and the era of the great struggle was at hand which ended a century and a half later in the extinction of the imperial authority, if not the imperial name, in all the region south of the Alps.

4. *The Era of Conflict between the Secular and the Spiritual Power*

The dramatic struggle between the Emperor Henry IV and Pope Gregory VII focussed the controversy as to the relation of spiritual to secular authority at the point where, in the belief of the time, each species of authority had its culmination. In the early days, before the ecclesiastical primacy of the Bishop of Rome had been clearly established, the Emperor had been recognized as head of both state and church. Yet a sphere had always been assigned to the ecclesiastical authorities, which, though not defined with entire clearness, included at least the power to inflict purely spiritual penalties for moral delinquencies.

This power had been exercised by Ambrose, the energetic Archbishop of Milan, upon no less a personage than the Emperor Theodosius the Great, who was excluded from the communion for breaking faith with and slaughtering certain rebellious subjects. Throughout the succeeding centuries excommunication was employed with ever-increasing freedom by the higher church officials both against one another and against men in other stations in life. With the centralization of ecclesiastical power in the Pope, however, excommunication at his hands, recognized and enforced by an obedient clergy, could be made to assume a very serious aspect. The tendency was to extend the consequences of the penalty more and more into the field of temporal concerns. Thus developed the doctrine that an excommunicated prince was no longer entitled to the allegiance of his subjects, and ceased *ipso facto* to reign.

The earliest stage of the conflict between Papacy and secular power is exemplified in the case of Pope Nicholas I and King Lothaire of Lorraine. The king, with the consent of an obsequious synod of prelates of his own dominion, divorced his wife and espoused his mistress. Nicholas intervened, and after a long struggle forced Lothaire to take back his wife. Against the Pope were joined the king, his brother the Emperor Louis, and all the powerful prelates who had sanctioned the divorce. But the moral issue in the case was so obvious that the terrors of the papal excommunication prevailed against all. Though the Emperor, in behalf of his brother, led an army against

the city of Rome, and entered the walls without resistance, yet he was soon glad to make his peace with the Pope and retire from the controversy. In the course of this struggle claims of power were made on behalf of the Pope that trenched deeply on the secular jurisdiction. It was not, however, till two centuries later that these claims took practical shape in the conflict over investitures.

Here the issue was made up on a ground where the moral bearings were greatly obscured by other considerations. Gregory VII (Hildebrand) decreed in 1075 that no ecclesiastic should thereafter be invested with the symbols of his office by a secular prince, under penalty of excommunication to both parties to such a transaction. The avowed purpose of this decree was to put an end to the simoniacal purchase and sale of the dignities of the church — a practice that had become universal and inveterate. But behind this object, which would command the sympathy of such enlightened public opinion as the time could boast, lay the larger idea which permeated all Gregory's projects — that of a purified hierarchy, headed by the Pope, guiding without responsibility to any temporal power all the destinies of mankind. The effect of his decree would be to transfer to the Roman see that dominant influence in the filling of bishoprics and abbacies which had been wielded by the secular potentates. To these latter, however, the obvious consequences of the Pope's policy were very startling. The landed estates possessed by the episcopal churches and monasteries constituted in all

Western Europe a very large proportion of the soil, and the bishops and abbots were, as tenants of these estates, the feudal vassals of the monarchs. The decree of the Pope would practically deprive the latter of all the incidents of suzerainty which were involved in the feudal tenure, and would reduce the royal power to nullity. In Germany and Italy the ecclesiastical estates were exceptionally large and the tendencies to revolt against the imperial authority exceptionally strong. The Emperor, moreover, was invested by the sentiment of the times with a superiority over all other secular rulers. To Gregory, aspiring to the summit of authority, the subjection of the Emperor would go farthest toward the attainment of his end. Hence it was that, in the eleventh and twelfth centuries, the conflict of secular and spiritual powers was centred in the conflict of Papacy and Empire.

The struggle was precipitated by the peremptory summons addressed in 1076 by Gregory to Henry of Germany to appear before the papal court and answer charges of disregarding certain decrees of the Pope. Henry's reply was the deposition of the Pope by a council of German prelates. Gregory thereupon solemnly asserted the utmost authority ever claimed by the Roman see, by excommunicating and deposing the king and absolving his subjects from their oaths of allegiance. By fostering the discontent and ambitions of the great German nobles and prelates the Pope was able to bring the king to the profound humiliation and submission of Canossa. This, how-

ever, was but the beginning of the long struggle. Henry recovered his power for a time and avenged himself on Gregory, but the principles at issue were too far-reaching to admit of an unequivocal settlement. On the narrow question of investitures, a rational compromise was reached in 1122. But the broad issue between papal and imperial power continued, through a bewildering multiplicity of incidents, to form the core of European politics for nearly two centuries. Only with the extinction of the house of Hohenstaufen, in 1254, was the triumph of papal policy made clear. From that date the disintegration of the Empire was a fact which the lingering veneration for the imperial title could but scantily disguise. Of the constituent elements of the dominion which Otto the Great had restored, Germany was a mere confederation of princes, and Italy a group of city republics and petty principalities of which the only bond was the feud of Guelf and Ghibelline.

What the ancient imperial ideal failed to achieve against the extreme pretensions of papal power was ultimately accomplished by the national monarchies that arose beyond the bounds of the Empire. The power of the Pope to hold kings and other princes to account for moral delinquency was freely asserted in extra-imperial lands by Gregory VII and his successors. Largely through the influence of the Crusades the prestige of the popes expanded by leaps and bounds during the twelfth century and culminated in the reign (for reign it truly was) of Innocent

III (1198–1216). The records of this pontiff's relations with secular princes illustrate fairly well the status of the Papacy in European politics. In the Empire he openly claimed the right to judge finally between the rivals in a disputed succession, and actually determined the occupation of the throne in turn by Philip, Otho IV and Frederick II. In France, by putting the kingdom under an interdict, he forced the truculent Philip Augustus to take back a discarded wife and cast off a noble mistress. John of England, in a memorable struggle, was obliged to yield his kingdom formally as a fief of the Roman see and to become the vassal of the Pope. The realms which the Christian princes of Spain and Portugal were laboriously wresting from the Moors were treated by Innocent (and with slight opposition) as papal dependencies, on the theory, already generally recognized, that land conquered from heathen and infidels was at the disposal of the Roman see.[1] The King of Aragon, with full feudal ceremony, assumed the status of vassal to the Pope. Throughout Christendom, in short, the spiritual lordship of Rome was recognized as involving in some measure the attributes of political sovereignty.

A century after Innocent III, the prestige of the Papacy received a fatal shock in the memorable conflict between Boniface VIII and Philip the Fair of France. The exalted position of the popes in secular

[1] Henry II of England asked and received from Rome authority to conquer Ireland, though the Irish were neither heathen nor infidel, but merely refused to conform to the Roman ritual.

affairs had been due largely to the unsubstantial character of feudal lordship from the standpoint of real power. Suzerainty tended to become merely nominal and ceremonial, and for suzerainty of this character the Papacy, destitute of military force, was well adapted. The chief instrument by which the popes had asserted real power over monarchs had always been the rebellious tendencies of the great vassals. During the thirteenth century, however, the French kingship, largely through the ability of Louis IX, assumed a high degree of solidity. When, therefore, Boniface VIII opposed to the policy of Philip the Fair an energetic demand for the exemption of ecclesiastical property from taxation, save with the papal consent, the king was able to defy the Pope, and to win general support from both lay and ecclesiastical subjects. Further, Philip found opportunity, in the distracted condition of Italian politics, to carry the war into the Pope's immediate territory. The outcome was the so-called "Babylonish Captivity," during which the Papacy, having removed its abode from Rome to Avignon, was little more than an adjunct of the French monarchy. From Avignon it waged another violent and in some measure successful contest with the holder of the imperial title. But its prestige had been seriously impaired, and it suffered yet more severely in the Great Schism (1378–1415). Though the restoration of harmony and unity in the church was so effected as to save the appearance of papal independence, the aggressive attitude of the Pope toward temporal

princes could no longer be maintained. The feudal order of society was waning. Where its influence still persisted most strongly — in the Empire — the Roman church could still assume an air of aggressive political consequence; but in the rising national states of France, England and Spain, her power was henceforth wholly employed in the defence of rapidly shrinking remnants of temporal dignity.

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CHAPTER VI

POLITICAL THEORY IN THE EARLY CHURCH

1. *Jesus and the Apostles*

To the founder of Christianity no idea or doctrine that can be designated as political seems to have had the slightest interest. The teachings of Jesus, as recorded in the Gospels, embody a moral code of marvellous simplicity and completeness and the Jewish Messianic theology. The Golden Rule, which sums up his conception of the relations of man to man, is in some degree unpolitical; since in proportion as it is lived up to, the coercive function of government loses significance.[1] A like unpolitical influence springs from the pity for the oppressed and the suffering which pervades all his thought. In bringing hope to the lowly, the powerful of the earth are disparaged and counted for nought. But the hope that he holds out embodies no element whatever of revolutionary suggestion. The "kingdom" into which his followers are to enter is most carefully distinguished from the realms of this world. It is the kingdom of Heaven, mystically conceived as the abode of God. From every attempt to attribute to

[1] *Cf.* Janet, *Histoire de la Science politique*, I, 284 (ed. 1887).

him the characteristics of temporal dominion, he turns with indifference or scorn. The efforts of his adversaries to embroil him with the Roman authorities evoke the pregnant injunction, "Render unto Cæsar the things that are Cæsar's";[1] and at the crisis of his life he convinces Pilate by the disclaimer: "My kingdom is not of this world."[2] The ingenuity of later ages, as will appear in subsequent chapters, extracted from the text of the gospels doctrines that stood in violent contrast to these; but the indifference to temporal power which these express accords with the whole spirit of Jesus himself.

It is this spirit which clearly animated the apostles in spreading the faith among Jews and Gentiles. The soul of Paul's admirable epistles is exhortation to upright living and to saving faith in the new Evangel. Of pure and uplifting morality and of subtle and profound theology his works are full, but of politics we find only that injunction of passive obedience: "Let every soul be subject unto the higher powers. For there is no power but of God; the powers that be are ordained of God,"[3] *etc.* Paul conceives of government as an instrument for the execution of God's will. And this conception is even more fully expressed by Peter: "Submit yourselves to every ordinance of man for the Lord's sake; whether it be to the king, as supreme; or unto governors, as unto them that are sent by him for the punishment of evil-doers and for the praise of them that do well."[4] It was in the spirit of these

[1] Matt. xxii, 17; *cf.* Matt. xvi, 24–27.
[2] John xviii, 36. [3] Rom. xiii, 1–7. [4] 1 Peter ii, 13–17.

texts, supported by the injunctions to meekness and humility that pervaded the teachings of both Jesus and the apostles, that the roll of Christian martyrology was made up; for passive submission found its absolute limit in that world-old refuge of religious dissent: "We ought to obey God rather than men." [1]

The political indifferentism of primitive Christianity was supplemented by a social indifferentism that tended often to aggressiveness. For the humble classes from which Jesus drew his followers, it was natural to interpret the Master's denunciations of the rich in a communistic spirit.[2] But the sober sense of Paul and his followers corrected this extreme tendency, and preached that no earthly condition was a bar, as none was a key, to entrance into the Christian fellowship. Faith in Jesus constituted the sole test, and in this faith there was no distinction of rich or poor, high or low, slave or free. Thus in the lowly classes at the base of the social structure in the Roman Empire developed a principle of equality and brotherhood analogous in its bearings to that which Stoicism was propagating among the intellectual classes at the social apex.[3] As Christianity spread upward among the people, its way was made easier by the prevalence of Stoic concepts; the oneness of humanity, which had been conceived as centring in the Stoic cosmopolis, received a much more definite and attractive realization in the promise of the Christian heaven.

[1] The Acts v, 29. [2] The Acts, ii, 44, 45. [3] *Supra*, pp. 105–106.

2. *The Fathers of the Church: Ambrose, Augustine, Gregory the Great*

When, in the fourth century, Christianity became the official creed of the Roman state, the general tone of the writers who treated of doctrinal matters was that of Jesus and the apostles. Humility, political indifferentism and other-worldliness were dominant. But by this time the church had become a huge social, quasi-political institution. It possessed great property; its relations with the imperial administration were close and complicated; and it was distracted by heresy. These conditions injected into ecclesiastical writings a new note, illustrated by the able and vigorous Ambrose of Milan. The rights and dignity of the church began to be set on even terms with those of the Empire, and in relation to the injunction of Jesus was suggested the vital question: What is Cæsar's and what is God's? The great Theodosius, guilty of barbarous cruelty toward his rebellious subjects, was reproved and brought to repentance by Ambrose, and gave full recognition to sacerdotal sway over the moral life of the Christians. When Valentinian ordered that the claim of an Arian to the see which Ambrose held should be brought before the imperial court for trial and decision, the latter indignantly refused to comply. "In a matter of faith," he boldly declared, "bishops are wont to judge emperors, not emperors bishops." [1] This is pre-

[1] Quis est qui abnuet in causa fidei . . . episcopos solere de Imperatoribus christianis, non Imperatores de Episcopis judicare. — *Ambrosii Epistola,* xxxii, in Goldast, II, p. 10.

scribed even by imperial laws, which must not be repealed; for "I would not that thy law should be above the law of God." And when ordered to deliver certain of the churches of his see to his rival, Ambrose, in his *Oratio de Basilicis Tradendis*,[1] gave passionate utterance to the claim that there was a line within which imperial authority could not intrude. Tribute the Emperor may take; the lands of the church he may take, but the temple of God not. "Palaces belong to the Emperor; churches to the priest." "That which is divine is not subject to the imperial power." But the decree of the Emperor he would not resist by violence. The prayers of the faithful were the only weapons of his defence. "Tradere Basilicam non possum, sed pugnare non debeo."

In Ambrose the growing self-consciousness of the Christian church is manifest, but the sphere claimed for its independence is still little more than apostolic. Things moral and divine, where its authority is undisputed, are understood as trenching very slightly on the temporal sphere, in which the authority of the state is undisputed and even glorified. In Augustine there is more manifest a tendency to depreciate the importance of the forms and functions of political authority, and to exalt by comparison the spiritual life of the faithful. His most comprehensive work, *De Civitate Dei*, though covering substantially the whole realm of human history, theology and philoso-

[1] Goldast, II, 12. *Cf.* also the letter to his sister, in which Ambrose tells the story of the whole affair. *Ibid.* 16.

phy, has for its central theme the concept of God's elect as constituting a commonwealth of the redeemed in the world to come — a commonwealth of which the church is a symbol on earth. In developing this idea, he works consciously on Plato's lines[1] and formulates from the political philosophy of that master and of Cicero a system in which the leading dogmas of the Christian faith assume a controlling part.

But while dealing with law and politics, and the relations of men and nations in this world, all such subjects are set forth as merely subsidiary and incidental to the divine scheme of salvation for the saints and their eternal blessedness.[2] The *summum bonum* — the end of the universe — is peace, harmony, order. But the *pax terrena*, of which the household, the city and the social world are expressions, is of slight consequence compared with the *pax æterna* — the order of life immortal. The peace of the body is as nought compared with the peace of the soul. The right of dominion given by God to man over soulless things illustrates the relative significance of the two. And Augustine here incidentally lays down the Christian justification of slavery. The lot of the slave is the wages of sin.[3] The theory of the Roman jurists that the slave is he whom the conqueror in battle has spared (*servare*) is adopted, with the additional conception of the judgment of God: "Every victory,

[1] *Cf.* for his appreciation of Plato, *De Civ. Dei*, Lib. VIII, cap. 5, 6 *et seq.*

[2] *De Civ. Dei*, Lib. XIX, esp. cap. 14 *et seq.*

[3] "Conditio quippe servitutis jure intelligitur imposita peccatori."

even though it falls to the wicked, is a divine judgment and through the downfall of the vanquished either atones for or punishes sin." But to the Christian submission to an earthly master is of little moment, in the assurance that in life immortal all is equality.

The character of Augustine's thought is as well as anywhere illustrated in his criticism of Cicero's conception of commonwealth and people.[1] Embodying the element of justice, the definition will not apply, the critic holds, to a people that does not recognize God. For "justice is that virtue which gives to each his own," and it cannot be predicated of the community which takes man himself away from God and gives him to demons. This is not giving but denying to God his own.[2] Justice can exist only in a people who worship the true God. Augustine thus not only depreciates the earthly state as compared with the state of the future life, but denies to non-Christian earthly states all social virtue. For he early in his work lays it down that without justice there is nothing to distinguish a state from a band of brigands.[3]

Two centuries after Augustine, in the writings of Gregory the Great, "the last of the fathers," we find the same general spirit as in Augustine, with an accentuation of the stress on the church, the priesthood and the things of the spiritual life. Gregory was thoroughly monkish in temperament; a seer of

[1] *Ante*, p. 120.

[2] *Op. cit.*, Lib. XIX, cap. 21; *cf.* 23 end, and 24.

[3] Remota justitia, quid sunt regna nisi magna latrocinia?—Lib. IV, cap. 4.

visions, a doer and discoverer of miracles and a deviser of fanciful interpretations of the sacred writings. He lived in a constant sense of besetting angels and demons, and of the impending judgment of God. Yet at the same time he displayed a remarkable appreciation of the policy demanded by the actual conditions which surrounded him; and thus, while on the one hand he greatly promoted the tendency of the faith to ignorance and superstition, on the other he maintained Rome from being overwhelmed by the Lombards, and set the Roman see fairly on the way to independence and exaltation. To the Emperor at Constantinople Gregory observed and even emphasized the forms of servility which were the custom of the day. He proclaimed himself mere "dust and worm," and when the Emperor called him a simpleton, merely sought consolation in the Scriptures.[1] But this policy could find a cause in the ever-present danger from the Lombards, and it in no way altered the writer's conviction that the secular power was less noble than the spiritual. In protesting against a law that soldiers should not be admitted to monasteries, he declared it to be the end of the imperial rule "that the way to heaven may be more accessible and that the earthly may serve the celestial kingdom."[2] Monks are the soldiers of God, and priests are the servants of God — are like angels and to be esteemed divine. Finally, no one can rightly wield secular

[1] See letters in Goldast, II, 21–22.

[2] Ut . . . Coelorum via largius pateat, et terrestre regnum coelesti regno famuletur. — *Ibid.*

power who knows not how to deal with things divine; "the peace of the state depends on the peace of the universal church."

After Gregory and largely through his influence sacerdotal literature — and other literature there was none — became destitute of political bearing till the stirring ages of the Carolingians. The Gregorian type of thought definitely superseded the Augustinian; the ancient pagan writers were discarded as profane, and the sole recourse of the monkish scribes for history, theology or law was to the Bible or to the "fathers." This fact gave a peculiar character to the controversies of the Middle Age.

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CHAPTER VII

THEORIES DURING THE DEVELOPMENT OF ECCLESIASTICAL HEGEMONY

1. *Development and Method of Reasoning*

The momentary impulse given to learning by Charlemagne's enlightened policy did not result in any notable contribution to political theory during the Emperor's own lifetime. But the leading part taken by the higher clergy in the conflicts over the partition of his dominion precipitated the debate on what has been said to have constituted the core of mediæval political thought — the relation of the ecclesiastical to the secular power. The general trend of this debate, from the ninth to the thirteenth century, following closely the trend of objective fact, was toward a well-rounded theory, first of ecclesiastical and then of papal hegemony in world politics. The literature in which this theory is embodied is for the most part a literature of controversy on concrete temporary issues. For our purpose it is not necessary to follow the varying phases of the debate. We may be content with the mere mention of the leading participants, and a more or less systematic account of the doctrine to the ensemble of which all of them contributed.

In the ninth century the great names are those of Agobard,[1] Bishop of Lyons (779–840?), prominent in the strife between Emperor Louis the Pious and his sons; Hincmar,[2] Archbishop of Rheims (806?–882), the all-powerful primate of the Gallic church; and Pope Nicholas I (pontificate 858–867).[3] The tenth century is practically a blank for our purpose, but the next two centuries are rich in powerful debaters of the theory under discussion. In the Hildebrandine age may be named, besides Pope Gregory VII himself (pontificate 1073–1085)[4] and his imperial adversary, Henry IV,[5] Manegold of Lutterbach, who put forth an elaborate argument in behalf of the Pope,[6] and the German bishops, Theoderic of Verdun and Waltram of Naumburg, who wrote in behalf of the Emperor. The twelfth century produced on the one side St. Bernard,[7] John of Salisbury[8] and the influential *Decretum* of Gratian,[9] in which, by the collection, comparison and reconciliation of ecclesiastical authorities, the hierarchical theory was reduced to the form of a legal system; and on the other, the supporters of the Emperor Frederick Barbarossa and the jurists of the Civil Law, whose commentaries on Justinian afforded the best theoretical defence for the imperial jurisdiction. The

[1] Works, in Migne, *Patrologia Latina*, Vol. 104.

[2] *Ibid.* Vols. 125, 126.

[3] *Ibid.* Vol. 119. [4] *Ibid.* Vol. 148.

[5] His official documents are in Goldast, *Collectio Constitutionum Imperialium*. Also in the *Monumenta Germaniæ Historica, Constitutiones*.

[6] In the *Monumenta, Libelli de Lite*, Vol. I, p. 308.

[7] Migne, Vols. 182–185. [8] *Ibid.* Vol. 199. [9] *Ibid.* Vol. 187.

fully rounded ecclesiastical theory, at the climax of actual ecclesiastical power, is to be found in the writings of Pope Innocent III (pontificate 1198–1216).[1]

The method characteristic of all the reasoning of these centuries was that to which Gregory the Great had given the impulse. A certain few precedents of profane history were appealed to, but beyond this the Bible and the teachings of the church fathers were held to be conclusive. Of the latter, St. Augustine was most abundantly drawn upon, with Gregory the Great in the second place. Augustine's extensive ramblings in secular history were, however, disregarded, though the influence of his appeal to history was manifest in the use made of the Old Testament. The increasing resort to the Old Testament as compared with the New furnishes, indeed, a fairly accurate measure of the intensifying of the conflict between the ecclesiastical and the secular power. The indifferentism and submissiveness of Jesus and the apostles were feeble weapons in comparison with the aggressive tone found in the law and the prophets of the Old Dispensation. It was universally assumed that the history of the children of Israel was a direct prefiguring of the life of the Christian church, and that the canonical Scriptures were literally inspired by God, and hence were infallible guides. On these assumptions, the appeal to Israelitish history and institutions could not be attacked by either side, and had to be made by both. Hence it was that the discussions of the

[1] Migne, Vols. 214–217.

period consisted very largely in citations from the Bible, interpreted and commented upon in what is to the modern mind an insufferably blind and uncritical spirit. And thus it was that human experience, outside of the one people whose records were embodied in the Scriptures, had slight influence upon the political theory of the Middle Age.

As described in the Old Testament, the institutions of the Israelitish state appear purely theocratic. Government is administered under laws and through organs whose existence is derived from the direct manifestation of God's will. The Levitical priesthood, the judges and the prophets perform the gravest functions in the state under immediate divine mandates. And when royalty is established in Israel, the kings are represented as hedged about by the ancient theocratic traditions, and as commonly determined, in both the origin and the exercise of their power, by priests and prophets, through whom the will of God is made manifest.

By this conception of the Israelitish state, the mediæval theory of politics was decisively influenced. No doubt was raised that the priesthood of the Christian church was prefigured by the Levites and the prophets of the old dispensation, and that the relations of the latter to the kings in Israel and Judah were a divinely ordained symbol of the relations that ought always to prevail. Accordingly, argument took the form of a citation of instances in which God's favour could be construed as resting decisively with royal or with sacerdotal authority

respectively. In this sort of discussion the ecclesiastical debaters had a distinct advantage in the fact that the ancient record almost invariably ascribed the greatest prosperity to those monarchs who were most subservient to the priests and prophets. It seems clear, moreover, that the resort to the Old Testament and the resulting advantage to the ecclesiastical argument were promoted by the mere fact that secular authority in Europe passed from an emperor to a series of kings. No such dignitary as Imperator or Augustus or Cæsar appears in the Old Testament, while kings figure there in great numbers. To the mediæval mind a text embodying a reference to a "king" by that title was decisive without further investigation. "Emperor" signified something higher, and the claims of imperial authority had to be met by a somewhat different line of reasoning.[1] Kings could be denounced in the very words of divine inspiration; to humble the Emperor resort was necessary to the general preëminence of the spiritual authority.

2. *The Dogma of the Two Powers*

The starting-point in all mediæval theorizing on politics was the dogma of the two powers. The

[1] The consciousness of this distinction is shown in the letter of Gregory VII to Hermann of Metz (Registrum, lib. iv, epist. 2): "Ambrosius non solum regem sed etiam revera imperatorem . . . excommunicavit." Gregory never recognized Henry IV as Emperor. The earlier distinction between royal and imperial dignity is exhibited in a letter of Alcuin quoted in Gieseler, *Church History* (translation, N.Y. 1865), Vol. II, p. 38, note. For the whole letter, see Jaffé, *Bibliotheca Rerum Germanicarum*, Vol. VI, p. 463.

accepted formula for the dogma was a dictum said to have occurred in a letter of Pope Gelasius to the Emperor Anastasius (494 A.D.): —

> There are two systems under which chiefly this world is governed, the sacred authority of the priests and the royal power. Of these the greater weight is with the priests in so far as they will answer to the Lord even for kings in the last judgment.[1]

This text recurs very frequently throughout the controversies of the times. To the ecclesiastics the second clause naturally rendered it especially attractive. Hincmar cites it wherever he touches on the subject-matter;[2] Gregory VII employs it in defending his proceedings against Henry of Germany; and it found a place in the compilation of Gratian.[3] Nor was the fact of the twofold authority disputed by the opponents of ecclesiastical pretensions. The actuality of sacerdotal power was too conspicuous a feature of the period to be disregarded, however stoutly the extreme deductions of the priests as to the extent of their sway might be resisted.

For the establishment and perpetuation of the dual system of authority, proofs of divine sanction were

[1] Mansi, *Sacrorum Conciliorum Collectio*, VIII, 31; *cf.* Gieseler, II, 49. "Duo quippe sunt, imperator Auguste, quibus principaliter mundus hic regitur, auctoritas sacrata pontificum et regalis potestas. In quibus tanto gravius est pondus sacerdotum quanto etiam pro ipsis regibus Domino in divino reddituri sunt examine rationem."

[2] *E.g.*, *Ad Proceres Regni pro institutione Carlomanni Regis*, cap. i; *Ad Episcopos Regni Admonitio*, cap. i; *Capitula in Synodo apud S. Macram*, cap. i; *Epist. ad Ludovicum III, Regem; De Divortio Lotharii et Tetbergae.*

[3] *Decretum*, Dist. 96, can. 10.

brought forward in abundance. Hincmar's doctrine was that Jesus alone could have become, like the pagan rulers, both priest and king, but he elected not to unite the two functions; and after his ascension no king presumed to exercise priestly, nor priest to mingle in royal, powers.[1] And another dictum of Pope Gelasius enjoyed throughout the Middle Ages equal authority with that referred to above: —

> The Mediator between God and men, the man Christ Jesus, by marking out the methods and dignities appropriate to each, so distinguished between the duties of the two powers . . . that the Christian emperors should need the priests for the sake of eternal life, and the priests should make use of the imperial laws for the course of temporal affairs only.[2]

With the resort to the Old Testament fully established, the authority of Jesus to separate the two powers was found prefigured in that of Melchisedek, who was both priest and king, and of David, who was prophet and king, and in the fact that Jesus was of both royal and sacerdotal lineage.[3] Even the creation of the sun and moon, which was made by Innocent III the basis of a rather striking simile,[4] assumed the character of a calculated symbol of the divine will in respect to the two species of authority. The distinction between body and soul afforded another analogy which was frequently appealed to; and the "two

[1] *Capitula apud S. Macram*, cap. i. Also *Admonitio ad Episcopos*, cap. i.

[2] *Decretum Gratiani*, Dist. 10, can. 8, and Dist. 96, can. 6. In both places the passage is quoted from a letter of Pope Nicholas I.

[3] Innocent III, *Responsio Nuntiis Philippi*, Reg. de Neg. Rom. Imp. 18.

[4] Reg. lib. i, epist. 401.

swords" exhibited to Jesus by the disciples[1] played ultimately a prominent part in the thought of an age that was inordinately sensitive to dualism.

But however fixed the idea of a distinction of powers, there was theoretically no cause for conflict between them. A perfect harmony was conceived as the divinely ordained relation. Things temporal were the domain of royalty, things spiritual that of the priesthood. The sphere of each was decreed by God for the exclusive administration of each. As the emperors and kings claimed no authority in spiritual affairs, so the bishops and popes claimed no authority in secular affairs. The purpose of the distinction between the two powers was clearly laid down in the continuation of the passage last quoted from Gelasius: —

> In order that spiritual action may be free from carnal interruptions, and thus that "no man who warreth for God should entangle himself in the affairs of this world" (2 Tim. ii, 4); and in turn that he who has been involved in secular business should not be seen directing what is divine.

Theoretically, thus, there would appear to have been no basis for the age-long conflict of the powers. But the difficulty arose from the lack of any clear definition as to what was secular and what was spiritual. The ground on which the great churchmen attacked princes was that the latter were encroaching upon the spiritual domain, and the plea of the princes always was that the churchmen were mingling in

[1] Luke xxii, 38. See St. Bernard, *De Consideratione*, lib. iv.

secular affairs.[1] In the nature of the things the dispute could never be definitely decided by theory. As in all similar matters of wide human concern there was a broad field in which no precise and permanent line of demarcation could be drawn, and in which the assignment of specific cases to the one or the other category must vary with social conditions and with the general spirit of the age.

3. *The Argument for Sacerdotal Preëminence*

In the centuries during which the clash of the powers was most intense, the social and intellectual conditions were wholly favourable to the ecclesiastical cause, and a theory of general sacerdotal preëminence was matured which appealed very effectively to the sentiment of the times. The development of this theory stood in close relation to the doctrines upon which was erected the supremacy of the Roman see in the church. But since the latter lie without the field of political theory, they will be passed over. The only effect of the so-called Petrine dogma upon the general argument was to shift somewhat the emphasis placed upon the particular items.

This argument, broadly considered, followed two lines: first, that from the essential character of the

[1] I have found no case in the period with which we are concerned of a claim by laymen to spiritual power as such; and no claim by the clergy to direct control in temporal affairs, except that Innocent III asserted for the Papacy in certain cases an incidental jurisdiction: "certis causis inspectis, temporalem jurisdictionem casualiter exercemus." — Reg. lib. v, epist. 128.

two species of authority the greater dignity pertained to the spiritual and hence gave precedence to those in whom its exercise was vested; second, that God had directly conferred upon the church such power of inspection and correction in reference to the character and motives of secular rulers as carried necessarily, though indirectly, a control over their acts wherever a question of sin or morals was involved.

The first idea was an immediate consequence of the views of the early church as to the relative importance of the earthly life and the life to come.[1] As the saving of souls was infinitely more important than the regulation of mere physical life, so the savers of souls were infinitely more worthy of honour than the regulators of physical life. Ambrose had said that the glory of princes was to the glory of bishops as the brightness of lead to the brightness of gold; and this saying was a feature of all the sacerdotal arguments of the later age. Kings and princes, said Gregory VII, in that letter to Hermann of Metz[2] in which the professions of humility are in such striking contrast to the manifestations of arrogance, cannot cast out devils, cannot rescue from perdition the soul of a dying sinner, nay, must themselves come humbly to the priests for baptism and absolution. No king or emperor has raised the dead to life, has healed the lepers, or has made the blind to see. "From which is gathered how far the sacerdotal dignity exceeds the princely." This conclusion was also supported by the analogy of the body and

[1] *Supra*, pp. 155, 157. [2] Reg. lib. viii, epist. 22.

the soul — as the soul is more noble than the body, so is the priesthood than royalty — and by that of the sun and moon, symbolizing *sacerdotium* and *regnum* respectively. And finally, a characteristic interpretation of Old Testament history derived a proof of greater dignity from the greater antiquity of the sacerdotal office. Innocent III saw in Noah, as captain of the ark (*rector arcæ*), a symbol of the priest of the church (*quasi sacerdos ecclesiæ*), but was able to get even nearer the beginning of things by pointing to the sacerdotal act of Abel, who "brought of the firstlings of his flock and of the fat thereof; and the Lord had respect unto Abel and his offering."[1]

The second line of argument in the theory of clerical supremacy developed its peculiar strength out of the distinction which early became so clearly marked between the clerical and the lay elements in the church and the elimination of the latter element from all authority in ecclesiastical functions, whether spiritual or merely administrative. Secular princes were laymen. To the sacerdotal mind they were of all laymen the class most prone to sin, and therefore most in need of clerical censure. No fault can possibly be found with the ideal of character and conduct which the mediæval clergy set up for princes.[2] But

[1] Innocent III, Reg. de Neg. Rom. Imp. xviii. This argument was used as early as Agobard. *Cf.* his *Epist. ad Bernardum: De Priv. et Jure Sacerdotii.* In the above cited decretal of Innocent is contained an elaborate and formal argument for the superior dignity of the priesthood, including the citation of many other texts of Scripture whose connection with the subject cannot to-day be detected; *e.g.* the vision of Peter recorded in Acts x.

[2] *Cf.* Hincmar, *Ad. Episcopos Admonitio pro Carolomanno*, cap. 3, 4.

just in proportion as the requirements were more exacting the occasions for priestly reproof were more numerous. Among the duties of kings that were most imperatively insisted upon were respect for and protection of the church and its ministers. Upon the form and manner of fulfilling this duty there were naturally wide divergences of opinion between churchmen and secular rulers, and out of these differences arose the most critical of the mediæval controversies.

The case for sacerdotal jurisdiction was effectively presented by Hincmar in his discussion of the divorce of Lothaire.[1] The contention of the king's defenders that the king's acts are independent of episcopal judgment and subject only to that of God, is concisely declared to be blasphemous and diabolical. This contention may be true, Hincmar admits, of the good king; but the unjust or tyrannical ruler, like all sinners, must be judged by the priests,[2] "who are the thrones of God, in whom he has his seat and through whom he decrees his judgments." From the Scriptures Hincmar gathers all the texts which were most relied upon throughout the period. Jesus himself directly conferred on the church the final authority in disputes between brethren, adding this

[1] *De Divortio Lotharii et Tetbergæ*, Quæstio VI, of the seven supplementary questions at the end of the work. *Cf. supra*, p. 145.

[2] "Vel secrete vel publice"; that is, in the confessional or in the synod. The extension of the power of absolution of penitents after confession, to cover the claim to the right of publicly absolving or condemning a king for his official acts, was characteristic of the period under consideration.

plenary grant of power to the disciples: "Whatsoever ye shall bind on earth shall be bound in heaven; and whatsoever ye shall loose on earth shall be loosed in heaven."[1] The Old Testament record shows God continually employing the prophets as messengers of his wrath or mercy to kings. Samuel announced the divine judgment to Saul, Nathan to David, Ahijah to Jeroboam.[2] And in the law of Moses the symbol of sacerdotal jurisdiction is found embodied in the formal establishment of a court of Levites for last resort in difficult and doubtful cases.[3]

Later protagonists of the ecclesiastical cause discovered or emphasized other texts from the word of God. Gregory VII and all the adherents of the advanced Petrine theory, laid especial stress on the injunction of Jesus to Peter, "Feed my sheep,"[4] which was construed as a charge of universal pastoral authority from which kings were not exempted.[5] And Innocent III, whose ingenuity in defending his claims to jurisdiction was quite commensurate with his boldness in asserting them, fairly exhausted the possibilities of this species of reasoning. He even derived from an interpretation of Deuteronomy xvii, 8–12, the conclusion that difficult and doubtful questions of all kinds, both ecclesiastical and civil, might properly be referred to the papal see for adjudication.[6]

[1] Matt. xviii, 15–18. *Cf.* Luke, x, 16.
[2] 1 Sam. xiii and xv; 2 Sam. xii; 1 Kings xi. [3] Deut. xvii, 8–13.
[4] John xxi, 15–17. [5] Gregory VII, Reg. lib. iv, epist. 2.
[6] Lib. v, epist. 128. This is a "leading case" in the mediæval "conflict of the laws." It contains the papal decision on an applica-

After the time of Gregory VII, however, the crux of the claim to superior authority by the ecclesiastical power lay in the method of enforcing its judgments, especially against the bearers of ultimate political power. The final penalty of the church was excommunication and anathema. This, it was consistently held, corresponded to the death penalty in the Mosaic law: for the church of the New Dispensation did not wield the sword of blood; its weapon was the sword of the spirit. But when the terrors of excommunication ceased to make rulers respect the church, the power to depose a monarch was asserted, and was made effective through the power to release subjects from the oath of allegiance. Under the feudal organization of society the political significance of this oath was very great. But the relation to God that was created by the oath easily brought the matter within the domain of things spiritual.[1]

A specific grant of control over the bond between ruler and subjects was found in the authority to "bind and loose" conferred by Jesus on the disciples in the text of Matthew quoted above. But the Old Testament yielded a host of confirmatory texts. Most far-

tion for the legitimation of the natural children of William, Lord of Montpellier. The decision is that legitimating is a secular act, and the petition is denied. But the Pope argues at length that the papal jurisdiction might cover it; for the adultery from which the children sprang was a sin, and subject to sacerdotal judgment. The whole document is characteristic of the times; and the interpretation of the text of Deuteronomy is particularly noteworthy. *Cf.* Janet, *op. cit.*, I, 352.

[1] The right to absolve is defended at length in a letter of Gebhard of Salzburg to Hermann of Metz, in Migne, *Patrologia*, Vol. 148, p. 847.

reaching was God's commission to the prophet Jeremiah: "See, I have this day set thee over the nations and over the kingdoms, to root out, and to pull down, and to destroy, and to throw down, to build, and to plant."[1] In addition, appeal was made to the whole series of incidents in which tyrannic kings in Israel had been denounced, and their doom foretold, by prophets. And finally a number of precedents in the history of Christian times were always cited, to show that practice had conformed to this theory of ecclesiastical control. Theodosius, it was said, was deprived by Ambrose of the exercise of his imperial powers till he should have repented of his sin.[2] Chilperic, the last of the Merovingians, was deposed and his subjects were released from their oath by Pope Zacharias, and this not because of sin on the part of the king, but merely because of incompetency. The coronation of Charlemagne by Pope Leo came to be habitually treated as a transfer of imperial authority from the East to the West, and as a grant of such authority to the Frankish monarch, with the corollary that he who bestowed could deny or withdraw it. In the greatest heat of controversy, furthermore, much stress was laid by some defenders of the papal cause on the fable known as the "Donation of Constantine." This story, which became especially prominent through its incorporation in the *Decretum*

[1] Jer. i, 11. *Cf.* an elaborate comparison of this with the commission of Jesus to the disciples, by Innocent III, in Reg. de Neg. Rom. Imp. xviii.

[2] This exaggerated version of the incident (*supra*, p. 145) is given by John of Salisbury, *Polycraticus*, Bk. IV, ch. iii.

of Gratian,[1] narrated with much detail how Constantine the Great, upon his removal to Constantinople, had conferred all his imperial authority in the West upon Pope Sylvester, thus giving to the latter the priority as a secular ruler over all the kings in that region. But the most clear-sighted supporters of the Papacy disregarded this argument, as implying that some portion of the papal power was derived from man rather than from God direct, and found a much more secure basis for their position in the general character of the sacerdotal function as compared with the political.

With a wide basis in custom and public sentiment for the exercise of jurisdiction over many classes of legal controversies; with an exclusive control of such as could be shown to be spiritual in character; with the facility for extending this control that inhered in the doctrine that it embraced whatever actions were in any way tainted with sin; and with the power to enforce its interpretation of its authority by the deposition of secular rulers from power, — the mediæval church was in fact, if not in theory, a most potent political institution.

4. *The Argument for Princely Independence*

The ground taken by the secular rulers in opposition to the claims of the ecclesiastical power was in general that which is known at the present time as

[1] Dist. 96, can. 13 and 14. The other famous work of forgery in the mediæval conflict, the pseudo-Isidorian Decretals, have no direct interest in this place, as they were designed and employed almost exclusively in the purely ecclesiastical struggle which established the primacy of the Roman see.

the doctrine of the divine right of kings. Conceding the distinction of the two powers by Jesus, it held that the prince's function was as much divine in origin and character as the priest's, and that the final responsibility for princely acts was to God alone.[1] That kings ought to rule with justice, to protect and promote the welfare of the church and its priesthood, and to be benefactors of their people, was freely admitted. But failure in any of these respects did not divest them of the royal character or subject them to other than purely spiritual penalties. Their punishment would ensue, not in this, but in the future life. The king, whether good or bad, is, so the argument ran, the instrument of a divine purpose. His beneficence betokens God's mercy, his cruelty, God's wrath toward the subject people. The duty of all is submission to his will, and the only recourse against the evils of tyranny is repentance for sin and prayer to God.[2]

This whole doctrine, with its conclusion of passive obedience, was made to rest, in the resort to Scripture texts, mainly on the disclaimer by Jesus of secular authority and on the injunctions of Paul and Peter.[3]

[1] This doctrine is concisely stated, for the purpose of refutation, in Hincmar's essay, *De Div. Lothar. et Tet.:* Dicunt alii Sapientes quia iste princeps rex est, et nullorum legibus vel judiciis subjacet nisi solius Dei . . . et sicut a suis episcopis, quidquid egerit, non debet excommunicari, ita ab aliis episcopis non potest judicari, quoniam solius Dei principatui debet subjici, a quo solo in principatu constituit, et quod facit et qualis est in regimine, divino sit nutu.

[2] For a temperate exposition of this doctrine, see Hugo Floriacensis, *Tractatus de Regia Potestate et Sacerdotali Dignitate*, in *Monumenta Germaniæ Historica, Libelli de Lite*, II, 465; esp. lib. i, cap. 9, and lib. ii, cap. 6.

[3] Rom. xiii, 1–7; 1 Peter ii, 15–17.

The apostolic commands were indeed so direct and explicit that it gave the ecclesiastics no little trouble to escape the force of their literal application.[1] Paul declares: —

> The powers that be are ordained of God. Whosoever therefore resisteth the power resisteth the ordinance of God. . . . He is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject, not only for wrath, but also for conscience' sake.

And Peter enjoins obedience "to every ordinance of man for the Lord's sake" — to the king and to his subordinates; "for so is the will of God, that with well doing ye may put to silence the ignorance of foolish men." The sacerdotal debaters sought to evade the issue here presented by distinguishing between the king and the tyrant,[2] claiming that the apostolic teaching applied only to the former, and also by asserting that these injunctions were only for the laity and not for the clergy, who were, like the apostles, the teachers of the masses.[3] Such interpretations were, however, obviously felt to be somewhat strained and illogical and were much less prominent in the sacerdotal argument than the Old Testament texts, where a special disclaimer of God's responsibility for all kings was found in the often

[1] The command of Jesus, "Render unto Cæsar," *etc.*, was less cogent, for the obvious reason that it embodied no criterion as to what was Cæsar's, and what was God's.

[2] This distinction is common from Hincmar throughout the period.

[3] *Cf.* Innocent III, in a letter to Alexius, Emperor at Constantinople. *Prima Collectio Decretalium*, tit. ii, 2; in Migne, Vol. 216, col. 1182.

cited passage, "They have set up kings, but not by me; they have made princes, and I knew it not."[1] The supporters of secular independence readily followed their adversaries to the Old Testament and drew from it a notable array of doctrines favourable to their cause. From Saul down kings were shown to have enjoyed the direct sanction and conspicuous favour of God, and to have been instruments of the divine purpose.[2] But the princely cause was on the whole at a disadvantage here; for on the assumption that the Levites and the prophets symbolized the Christian priesthood, the chronicles of Israel, transmitted as they were by the ancient sacerdotal class, were of a distinctly anti-royal character. A similar reason gave to the hierarchical cause an advantage in the appeal to precedents of Christian times. The accessible historical records were very largely the work of the priests and monks, and embodied the legends and traditions peculiar to these classes. It was very difficult, therefore, to derive from current conceptions of history any correctives for the distorted versions of the attitude of even such noted rulers as Constantine, Theodosius and Charlemagne.

With the revival of the study of Justinian's code at Bologna, the lawyers, under the encouragement of Frederick Barbarossa in the twelfth century, began to make some influential contributions to the theory of the relations of the Empire to the Papacy.

[1] Hosea viii, 4.

[2] For a battle royal of the texts, see the correspondence of Waltram of Naumburg and Stephen of Halberstadt, for and against Henry IV of Germany, in Migne, *Patrologia*, Vol. 148, col. 1442.

The legislative absolutism of the prince was, as has appeared above,[1] the foundation of the Roman system. To emphasize this principle was to set an impassable limit to the extension of papal jurisdiction. It stood in perfect contradiction to the principle of Gratian in his *Decretum:* "The decrees of princes do not take precedence over, but follow, the decrees of the church."[2] The encouragement given by Frederick to the Roman law was incidental to the general policy of the Hohenstaufen emperors, to identify their dignity with that of the ancient Roman rulers. To the papal theory that the German emperors owed their authority to the "translation of imperial power" (*translatio imperii*) by Pope Leo to Charlemagne, was thus opposed the jurists' theory of "unbroken imperial power" (*imperium continuum*). The one doctrine had at least as good a foundation in fact as the other. And the imperialistic theory admirably supplemented and confirmed the idea of a universal monarchy as the normal type of political organization. Innocent III employed as an argument in demonstrating the superior dignity of the spiritual power, the fact that the authority of a prince was over only a limited region, while that of the church was universal.[3] To such an argument there was a cogent reply in the doctrine that the sway of the Emperor extended *de jure* over all the ancient Roman world, as well as over the German territory that had been added to this dominion. This universal jurisdiction was easily sustained by

[1] *Supra*, p. 129. [2] Dist. x. [3] Reg. de Neg. Rom. Imp. xviii.

both the general spirit and the literal expressions of the Corpus Juris Civilis; and the theory of imperial independence of ecclesiastical authority received strong support from the jurists. But this particular form of argument for the secular power naturally found little favour outside of the Holy Roman Empire; for the English, French and Spanish kings and their supporters could gain little from a doctrine which might save them from a Pope only to subject them to an Emperor.

5. *St. Bernard and John of Salisbury*

In addition to the foregoing account of the systematic contentions in behalf of the two powers, an account of the political theory of this part of the Middle Age requires some notice of two men of great prominence in the twelfth century, whose ideas, however, presented certain marked contrasts with those that have just been considered. The two men were St. Bernard and John of Salisbury. Both were ecclesiastics, and both were thoroughly imbued with the spirit of their order in respect to secular authority. But in other respects they stood widely apart. Bernard was a reforming monk, striving to instil into the practice of religion the ascetic and mystical spirit of the Fathers. John of Salisbury was a man of letters and a man of the world, the pupil of Abelard, from whom he imbibed that taste for good literature of all kinds that made him one of the most learned persons of his day. Bernard despised secular learning as he despised all things of

this world; and from the standpoint of his pure spiritualism he assailed what he conceived to be the temporal tendencies in the development of the church and the Papacy. John, on the other hand, accepting and sustaining the common dogmas of ecclesiastical theory, enriched the argument by extensive recourse to the ideas of classic paganism. He was the precursor of the greatest scholastics. While Bernard strove to recall into control the spirit of Gregory the Great, John systematically contravened that spirit by finding and stimulating delight in the literature which Gregory had banned. Bernard represented a type which was to have little influence in the church before the reforming movement of the sixteenth century, while John's methods were to become within a short time characteristic of all philosophy.

The attitude of St. Bernard is fully expressed in his short but remarkable work, *On Reflection*,[1] addressed to Pope Eugenius III (1145–1153). This is in substance an energetic protest against the growing absorption of the papal interest and energy in the administrative and non-spiritual concerns of the church. The maintenance, not to speak of the extension, of the Roman church's territorial possessions in Central Italy, as well as the world-wide business of organizing the second Crusade, made the papal court a centre of great activity in politics, with all the incidents of intrigue, ambition and avarice that are associated

[1] *De Consideratione Libri V.* Printed in Goldast, *Monarchia, etc.*, II, 68. Also in Migne.

with such conditions. That the time and attention of the Pope should be taken up with worldly matters was to the lofty soul of Bernard unendurable. "What," he asks, "is more slavish and unworthy, especially in the chief pontiff, than to sweat every day and almost every hour over such things?" It may be said that this is necessary in order to build up the church and meditate in the law. "And indeed," Bernard remarks, "law resounds every day through the palace; but it is the law of Justinian, not the law of the Lord." Jesus declined with scorn to decide a dispute over property, though he decides the eternal fate of souls; and it is a false logic which declares that the successors of the apostles must take jurisdiction over temporal concerns merely because they have authority over what is greater. Between the power and dignity of absolving from sin and that of dividing estates, there is no comparison. These grovelling things of the earth are to be passed upon by kings and princes. "Why do you rush into another's field? Why do you set your sickle to another's crop?"

The exaltation of the papal dignity is put by Bernard in the most unqualified terms.[1] But the function of the Pope is pastoral, not princely. "Lordship" (*Dominatio*) is denied to him in emphatic and reiterated expressions. Christ alone is *dominus*, and the Pope

[1] "Tu princeps episcoporum, tu haeres apostolum, tu primatu Abel, gubernatu Noe, patriarchatu Abraham, ordine Melchizedek, dignitate Aaron, auctoritate Moyses, judicatu Samuel, potestate Petrus, unctione Christus."

is his steward for all the world. The duty of this stewardship is to nourish, not to govern (*ut dispenses, non imperes*). And the abuses consequent upon the policy of continually extending the appellate jurisdiction of the papal see are denounced in glowing language. The venality of the court never received a more direct and cutting rebuke than from Bernard,[1] and the same is true of the ostentation, frivolity and extravagance that ruled there. And referring to a recent attempt of the Pope to maintain his territorial interests by force, Bernard points out that when a sword was drawn to defend Jesus at his betrayal, the Master commanded that it be returned to its scabbard. But, he continues, in a passage which became a commonplace in later controversy, the two swords of which Jesus said, "It is enough," both belong to the church,[2] the spiritual and the material; "but the latter must be used for the church, the former also by the church; the former by the hand of the priest, the latter by the hand of the soldier, though at the suggestion (*ad nutum*) of the priest and the command of the Emperor."

This passage strikingly illustrates the whole trend of Bernard's thought. Secular affairs are to be let alone by the priesthood not so much because they are outside of its sphere as because they are beneath its dignity and degrading in their nature. Political

[1] "Quae dabis mihi . . . pretio seu spe pretii non interveniente?" *Cf.* the Goliardic line, "Curia Romana non quaerit ovem sine lana." Emerton, *Mediæval Europe*, p. 475.

[2] If this were not true, Jesus would have said, not "satis est," but "nimis est." The text is Luke xxii, 35–38.

authority, in short, has its function in the performance of the menial duties essential to the maintenance and protection of the church. This idea is baldly and uncompromisingly set forth by John of Salisbury in dealing with the symbol of the two swords.[1] The prince, he says, receives the sword of blood from the church, who employs it by the hand of the prince, reserving the spiritual sword for the priests.

> The prince, therefore, is indeed the servant (*minister*) of the priesthood, and performs the part of the sacred duties which seems unworthy of the hands of the priesthood. For while every duty of the divine laws is religious and holy, nevertheless that of punishing crimes is inferior and seems in a way to represent that of the executioner.

So unflattering a conception of political authority is only set forth, however, when this species of power is brought into comparison with the sacerdotal. The *Polycraticus*,[2] the chief work of John of Salisbury, embodies a somewhat ambitious attempt at a broad philosophy of politics, in which the elements of princely rule receive in many respects a just and impartial consideration. His method of treatment is diffuse, and though it combines the appeal to ecclesiastical authority with copious references to pagan literature[3] and to pagan philosophy, it exhib-

[1] *Polycraticus*, lib. iv, cap. 3.

[2] The meaning of this title is unknown. For a conjecture as to the title and an analysis of the work, see Poole, *Illustrations of Mediæval Thought* (London, 1884), p. 216 *et seq.*

[3] The author frequently apologizes for such references, excusing himself on various grounds, *e.g.* that St. Paul drew illustrations from

its in only a rudimentary way the harmonizing of the two systems of thought that is characteristic of the next century. The substance of his politics is ethical rather than legal or constitutional. That is, he has no doctrine to present as to the organization of government, the distribution and inter-relationship of functions, or even as to the various forms of state and government. Monarchy is the only form of which he takes cognizance; and the administrative organization of monarchy is considered only so far as that of the old Roman Empire is known to him. The general view of the state embodied in the work, thus, is that suggested by the Roman Empire and modified by the Jewish monarchies of the Old Testament. Assuming that the state is incarnate in the prince,[1] the author dilates on the duties of the monarch toward those who are over him — the priests.[2] The most significant points of the work in the history of political theory are those touching (1) the relation of the prince to law and (2) the distinction between prince and tyrant.

As to the first, the doctrine is repeated again and again that the prince is subject to law; not, however, to his own statutes, but to the divine law of eternal justice, whose rule is equity. Equity is that general

profane history when he spoke to the Athenians (lib. iv, cap. 3); and that in the case of Plutarch, any divergence from the true faith and morals "tempori potius quam viro ascribatur" (lib. v, prol.).

[1] He must bear in mind that "universitatis subjectorum se personam gerere, et se non sibi suam vitam sed aliis debere."—Lib. iv, cap. 3.

[2] The order of obligation is as follows: "Totum se Deo debet, plurimum suae patriae, multum parentibus, propinquis, extraneis minimum, nonnihil tamen."—*Ibid.*

harmony in things through which a just proportion is preserved, and each receives his own.[1] This doctrine, enforced by obvious allusions to the Roman law, is gradually worked around into a basis for the subjection of the prince to the priesthood, as the guardians of divine justice.[2]

The distinction between prince and tyrant receives from John a sharper definition than had been formulated during all the centuries throughout which the ecclesiastics had denounced hostile rulers as tyrants. He takes up the classical conception on this point and in substance, though not in precise terms, makes the distinction turn on the conformity of the ruler to law.[2] More broadly, however, any abuse of power constitutes its author a tyrant, and in this sense there may be tyrant priests, as described in Ezekiel xxxiv. As to tyrannicide, he holds it to be entirely permissible and just, and in support of the righteousness of such action adds to the familiar examples from pagan history the instances of Eglon, Holofernes and others from the Old Testament. His respect for authority, however, leads him to make a curious distinction as to the means of removing the tyrant. The deed must be done without offence to religion and decency; and the use of poison is to be avoided, as having no precedent in the Scriptures.

This approval of tyrannicide on principle by an

[1] The text for this argument is found in Deut. xvii, 14–20. Note the ingenious way in which the author draws from the words, "and he shall read therein all the days of his life," the conclusion, "quam necessaria sit principibus peritio litterarum."

[2] Lib. viii, cap. 17–21.

ecclesiastic has been made the basis of severe reproach against John of Salisbury. It is due to him to point out, however, that he declared that the safest and most useful method of getting rid of the tyrant is by prayer and by averting the wrath of God of which tyrants are the instrument. His recurrence to the primitive Christian idea after fully committing himself to the pagan principle is quite characteristic of all his thought.[1]

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[1] Lib. viii, cap. 20.

CHAPTER VIII

ST. THOMAS AQUINAS AND HIS SCHOOL

1. *General Character of the System*

The culmination of papal influence in European politics was synchronous with a widespread revival of speculative philosophy. During the twelfth century a very marked activity in all forms of intellectual life was manifest. The philosophical expression of this activity was the extensive literature in which was embodied the doctrines of scholasticism. In its most general aspect, scholasticism was a system of thought in which philosophy, in the purely rational sense, was so subordinated to established theological doctrines "that where philosophy and theology trod on common ground, the latter was received as the absolute norm and criterion of truth."[1] Because the mediæval mind was essentially dependent upon authority for the bases of its speculative activity, the rational element in scholasticism was furnished by the philosophy of the ancients and the theological element by the church fathers. The earlier scholastics, from the ninth to the twelfth centuries, were obliged, in the absence of fuller sources, to follow in their systems the scanty outlines of Stoic and Pla-

[1] Ueberweg, *History of Philosophy* (translation, New York, 1871), I, 355.

tonic doctrine that had been transmitted through the Dark Ages in more or less accurate compends. Of Aristotle, but few works were known, and these, as Symonds says, through "Latin translations made by Jews from Arabic commentaries on Greek texts." The Aristotelian logic, however, imperfectly as it was understood, constituted the chief source of the rigid syllogistic method that is so common in scholastic reasoning.

In the latter half of the twelfth century the complete works of Aristotle began to enter Western Europe by way of Spain, where Latin translations of them had long been used in the Moorish universities. A little later Greek texts were brought from the East by the Crusaders, so that by the middle of the thirteenth century the greatest work which the human reason had yet produced was before the philosophers of the time. The result was the shaping of scholasticism into its later and most perfect form. Through the systematizing industry of compilers and commentators the doctrines of the church fathers and the dogmas of the church itself had by this time been digested into compact and intelligible form. Aristotle's works embodied a complete system of rational philosophy. From the two bodies of doctrine it was now the task of the schoolmen to forge out a single system of ultimate science which should blend, in final harmony, the products of reason and of revelation.

This purpose is the key to the philosophy of St. Thomas Aquinas. He is the greatest of the later

scholastics, and perhaps of all scholastics. Through him politics enters once more into the circle of the sciences, and assumes a position like that assigned to it by Aristotle, always subject, however, to that principle which permeates all mediæval thought — that the dogma of the saint takes precedence over the reasoned conclusion of the philosopher. Because Augustine had been the most prolific and the most respected of the fathers of the church, and had touched most of all on political questions, the political doctrine of Aquinas presents, even more strikingly than many other branches of his system, the characteristic which applies to scholasticism as a whole — the reconciliation of St. Augustine and Aristotle.

St. Thomas was a very prolific writer, and though he died at the early age of forty-seven, the works that he left are of enormous volume. On the political side, these include *Commentaries on the Politics of Aristotle* and the *Rule of Princes* (*De Regimine Principum*). The former work is almost wholly expository, and contains little of Thomas's own philosophy. The latter was designed as a systematic treatment of political science, but was unfinished at the death of St. Thomas. Of its four books, only the first and part of the second were written by him. The rest are by another hand, and, while maintaining with much fidelity the master's general principles and point of view, are noticeably deficient in the clearness and coherency which are peculiar to him. Thomas's greatest philosophical work, the

Summa Theologica, was also unfinished at his death; but the completed part of this masterpiece included the treatment of those ethical and juristic concepts which lie at the basis of politics; and it is with these concepts, which he developed with extraordinary acuteness, that the study of his political philosophy must begin.[1]

2. *Theory of Law and Justice*

St. Thomas's theory of law and justice is the channel through which the doctrines of Aristotle, the Stoics, Cicero, the Roman Imperial Jurists and St. Augustine, blended into a rounded whole, were transmitted to modern times. His analysis and definitions of the two concepts gave much precision to the vague and ill-formulated ideas in which they had long been enveloped. Like Cicero, he started from the notion of law (*lex*). Law he defined as "an ordinance of reason for the common good, promulgated by him who has the care of a community."[2] The full scope of this definition is best revealed in the fourfold classification of the species of law; namely, eternal, natural, human and divine. The *lex æterna* is the controlling plan of the universe, existing in the mind of God. Natural law (*lex naturalis*) is that participation of man, as a

[1] A useful compilation of St. Thomas's political ideas is contained in the little work of Baumann, *Die Staatslehre der h. Thomas von Aquino* (Leipzig, 1873).

[2] Quaedam rationis ordinatio ad bonum commune, et ab eo qui curam communitatis habet promulgata. — *Summa Theologica*, II, 1, 90, 4.

rational creature, in the eternal law (or the divine reason), through which he distinguishes between good and evil and seeks his true end. Human law is the application, by human reason, of the precepts of natural law to particular earthly conditions. The divine law in the special sense is that through which the limitations and imperfections of human reason are supplemented, and man is infallibly directed to his supramundane end — eternal blessedness; it is the law of Revelation.

St. Thomas's definition of law marks a stage in the development of the concept. Greek philosophy had regarded law as impersonal in origin — as a conclusion of reason and not as an expression of will. Roman jurisprudence had ascribed the character of law to either a conclusion of reason *or* an expression of will. St. Thomas defined law as at once a conclusion of reason *and* an expression of will. This progressive enhancing of the volitional element finds its explanation in the importance respectively of the Roman Emperor and the Christian God, as concepts dominating human reflection. Just in proportion as the agency of a well-defined personality was recognized as a determining factor in men's affairs, the conception of law as the will of this personality assumed greater prominence. St. Thomas does indeed declare that law is rather a rule and measure (*regula et mensura*) of action than a command; but the latter idea is clearly involved in his ascription of the origin of law to a superior, and in his elaborate contention that promulgation is of the essence of the concept. The

importance which he attaches to the imperative element appears also in the argument that law cannot spring from the rational impulse of any one at random, but, having for its end the common good, must have its source either in the society as a whole or in the public person who has the care of the society.[1] Moreover, law must have a sanction in order to be effective; but the private individual can only advise, not punish, and hence his rational injunction lacks the character of law.

Of the four classes of law which are so ingeniously distinguished, the first and the last embody characteristic conclusions of Christian theology. The eternal law is the design of the universe, conceived as the supreme reason of God the creator; the divine law, with its two subdivisions of old and new, is the will of God as revealed in the Old and New Testaments. Thomas's exposition of eternal and divine law has been of high significance in the history of philosophy and theology. In political theory his treatment of natural law and of human law, especially the former, has had most important results.

The *lex naturalis* he sums up, so far as its precepts are concerned, in the general rule, pursue the good and avoid the evil. The particular rules are merely rational means to this end. All men, as rational beings, share in or are subject to this law. For all men it is the same as to its first principles,

[1] Condere legem vel pertinet ad totam multitudinem vel pertinet ad personam publicam quae totius multitudinis curam habet. — *Summa Theol.* II, 1, 90, 3.

though in some deductions made from these principles there is divergence among different peoples. Thus the Germans in Cæsar's time did not regard robbery as wrong, though it is directly contrary to natural law. Being universal and essentially uniform among men, the *lex naturalis* might be supposed to be immutable. Not so, according to St. Thomas; it may be enlarged in content by the addition of what contributes to human welfare. Such extensions are to be found, for example, in the institutions of private property and slavery. The original law was community of goods and general freedom; but distinction of property and slavery, though not primary inclinations of man's nature, were nevertheless developed by reason for the utility of human life.[1] In the same manner the law of nature may be changed when a change of human conditions renders the observance of any of its derivative precepts no longer possible. St. Thomas nowhere gives a list of the specific rules which make up the *lex naturalis*. It is therefore difficult to form an idea as to what the proportion might have been between those which he regarded as immutable and the others.

Human law, working through fear of penalties, is essential to a peaceful social existence. It is derived from natural law and may be either a deduction from, or an application of, some principle of the latter. So indispensable is the connection of the two that any provision of the human that is at variance with natural law is not law at all, but a corruption of law.[2]

[1] *Summa*, II, 1, 94, 5. [2] *Ibid.* II, 1, 95, 2.

Justice St. Thomas, following substantially the Roman jurists, defines as the fixed and perpetual will to give to every one his own rights.[1] But the Aristotelian doctrine is also closely followed, in explaining the fundamental principle of justice to be that of equality. Equality, St. Thomas then shows, may be based either upon nature itself, "as when one gives so much that he may receive back precisely the same," or upon human determination, as when popular custom or princely decrees require that two things shall be regarded as equal. This distinction differentiates natural right (*ius naturale*) from positive right (*ius positivum*), the latter resting upon the *lex humana*. Written human laws are thus fully recognized as a source of rights and justice. But Thomas insists that they derive their force, not from being written, but from nature itself. Accordingly, written law is vitiated and loses binding force whenever and so far as it deviates from natural justice.[2]

In general, Thomas's treatment of law and justice exhibits well the salient characteristics of his philosophy. Some of his most acute distinctions and conciliations appear here, where he must bring into harmony the Aristotelian, the Roman Stoic and the Christian conceptions as to the basis of social order. The most original contribution that he makes to the subject is that definition and analysis of law through which he displaces at the ultimate source of authority

[1] Constans et perpetua voluntas ius suum cuique tribuere. — *Summa Theol.* II, 2, 58, 1.

[2] *Ibid.* II, 2, 60, 5.

the impersonal forces of nature and reason, and subordinates them to the personal Christian God. It is in accomplishing this that he emphasizes the importance of volition, in comparison with mere ratiocination, as an element in the definition of law.

3. *The Nature and Forms of Political Authority*

In St. Thomas's discussion of politics proper, Aristotelian doctrine furnishes the basis both as to method and as to content. But for the first time in mediæval thought appears at some points a very distinct influence of contemporary political, as distinct from ecclesiastical, institutions. Unlike John of Salisbury, who illustrated his philosophy almost exclusively by institutions that had ceased to exist centuries before, St. Thomas, in the full spirit of Aristotle, amplified the system of the Greek by reflection on the things about him. The Thomist political theory exhibits also very conspicuously the historical spirit, though the sources depended upon are almost entirely the Old Testament and Augustine's version of Roman history.

In the *De Regimine Principum*, Aristotle's fundamental principle is adopted, that man is by nature a social being (*animal sociale et politicum*), that social existence makes government (*aliquod regitivum*) necessary for the common welfare, and that the city (*civitas*) is the self-sufficing and perfect association. But here Thomas feels that Aristotle did not go far enough, and accordingly declares that a "province," including a number of city-states, has a higher degree of self-sufficiency because of the greater resources

for defence against enemies.[1] The province, or as it is also called, the kingdom (*regnum*), which Aristotle regarded as beyond the purview of rational ideals, is thus introduced fully into the system of political philosophy. It is treated throughout Thomas's works as a "natural" organization, and as embodying the rational principle of that larger and more characteristic mediæval entity, the Empire. The formal treatment of the latter institution is not found, however, in the authentic part of the *Rule of Princes*.[2]

While government is thus traceable, on Aristotle's theory, to the nature of man, political authority is also explained, like all other authority (*dominium*), as traceable to God. The dictum of St. Paul, "There is no power but of God," and numerous other texts of the Bible,[3] are cited as conclusive of this; but the thesis is defended also by Aristotle's metaphysical doctrines of final cause and first mover (*primum mobile*), and by Augustine's interpretation of Roman history as exemplifying God's bestowal of authority on a deserving people.[4] Dominion of man over man is divisible into two distinct classes: that which takes the form of slavery was introduced into the world on account of sin, as St. Augustine

[1] *De Reg. Princ.* I, 1; *cf.* 13 end.

[2] The nature of imperial dominion is discussed in Lib. III, cap. 12–19.

[3] *E.g.*, "The king's heart is in the hand of the Lord . . . : he turneth it whithersoever he will." — Prov. xxi, 1.

[4] *De Reg. Princ.* III, 2–6. This view of Roman history appeared prominently later in Dante's work. *Cf. infra*, p. 232.

holds; while that which imports the duty of counselling and directing would prevail in a state of innocence, and is incidental to the social instinct implanted by God in man. Society requires order, order implies inequality; and therefore directive authority rests upon divine sanction.

As to slavery, there is presented in the *Rule of Princes* a rather striking addition to the justifying principles adduced by Aristotle and Augustine. The former based the institution on differences in intellectual endowment; the latter regarded it as a divine system for the punishment of sin; but St. Thomas looks upon it as also designed to stimulate bravery in soldiers. That the vanquished will be enslaved is an effective inducement not to be vanquished; and for this view he cites not only the practice of the Romans, but also the precepts of God in Deuteronomy.[1]

As to the forms of political authority, St. Thomas follows the Aristotelian classification, based upon the distinction between those that aim at the good of all and those that aim at the good of the ruler alone. The former only are just. As between the monarchic and the democratic form his preference is as fluctuating as that of Aristotle, but leans, on the whole, about as distinctly toward monarchy as the Greek leans toward democracy. St. Thomas rests for his preference chiefly upon the abstract argument that unity is the end of society, and hence is the essential principle in governmental organiza-

[1] *De Reg. Princ.* II, 10.

tion. The chief good of a society is "that its unity be preserved, which is called peace";[1] and this is best promoted by "that which is in itself a unit." This is supported by analogies throughout the universe — the heart in man "ruling" all the other members, the king (*rex*) in every swarm of bees, and God himself in what he has created. Experience also demonstrates, St. Thomas believes, that monarchic government has been the best — that cities and provinces under democratic rule have been filled with dissension, while monarchies have rejoiced in peace and prosperity. The most serious danger in monarchy is that it may take the form of tyranny — the worst species of government. But still, Thomas believes that tyranny springs from democratic even more than from monarchic rule. His general discussion of the subject is characterized by great moderation and good sense.[2] In respect to individual action in slaying tyrants, he observes that it is more often bad men than good that undertake such an enterprise, and that, since bad men find the rule of kings no less burdensome than that of tyrants, the recognition of the right of private citizens to kill tyrants involves rather more chance of losing a king than of being relieved of a tyrant. The anarchic character of the argument for tyrannicide has never been more clearly exposed, or its conclusions more concisely refuted, than by St. Thomas in this passage.

The last two (and therefore unauthentic) books

[1] *De Reg. Princ.* I, 2. [2] *Ibid.* cap. 3–6.

of the *Rule of Princes* contain a discussion of various kinds of political authority based on the classification into (1) sacerdotal and royal, (2) royal, (3) political and (4) economic. The first class is exemplified solely in the Papacy, and this will be examined later; the fourth class is not taken up at all. As to the royal and the political species, the distinction is primarily that of Aristotle between government without law and government subject to law. The writer of the work manifests much vacillation and unclearness, however, in this respect, and at times confuses royal with despotic government, and political authority with that which characterizes the Aristotelian "polity." Of some interest, however, is the attempt to distinguish and set in its proper category that most prominent fact of mediæval politics—imperial authority (*dominium imperiale*).[1] The nature of this species is explained first through a long historical narrative, in which the Empire of Christ appears as the fifth world-monarchy, following those of the Assyrians, the Medes and Persians, the Greeks and the Romans. It is then set forth that Christ, though Lord of the world, lived a lowly and secret life on earth; but afterwards, at the Donation of Constantine, assumed openly his due authority through the church, and exercised it by transferring the imperial power to the West, in the person of Charlemagne, and by taking control of the choice of emperors. Imperial authority thus has, from its origin, a character that clearly distinguishes it from

[1] Lib. III, cap. 12–19.

the other species. At the same time, apart from this peculiarity, it is, in operation, substantially identical with royal power, and is therefore, in general, to be regarded as a special form of this class. Its relation to subjects and to the law is the same.

4. *The Functions of Government*

The general function of the political ruler is, through his supreme control of secular matters, to establish, maintain and promote right living among his subjects. This Aristotelian principle is fully accepted by Thomas, as are also, in large measure, the details of its application. The most important instrumentality in the attainment of this end is "that unity which is called peace." No feature of the Greek theory was more elaborately developed by the scholastics than that which set up unity and permanence as the prime criteria of excellence in political organization. This fact expressed in mediæval as in ancient times a philosophical reaction against widespread turbulence and anarchy.[1] For the regulation of the life of his dominion, then, the prince was bound, according to St. Thomas, to see that the population was properly kept up, to provide rewards and penalties through which to secure obedience to his laws, and to defend his people against external foes. In the elaboration of these duties the *Rule of Princes* follows Aristotle closely enough. But contemporary conditions suggest, and the Bible is made to confirm,

[1] *Cf. supra*, p. 85.

a number of other functions on which the Greek did not dwell. For example, it is laid down[1] that the prince must keep the roads in his dominion safe and free. This is purely a Roman conception, and is illustrated by the Roman practice; but in addition, an indication of divine sanction is extorted from the Old Testament in the fact that the Amorites were devoted to destruction for refusing a free road through their territory to the Israelites.[2]

Again, the prince must provide a special coinage for his realm, and also a system of weights and measures. The latter duty is sustained in characteristic mediæval style.[3] The argument from expediency is effectively put — that a governmental standard diminishes quarrels and litigation — but more stress is laid on the Bible. It is declared in the Book of Wisdom, ch. xi, that "God has ordered all things by number, weight and measure." This proves that weight and measure are of the nature of things. But what originates in nature is most necessary in a state, because the laws of a state have their source in natural right. Therefore a system of weights and measures is necessary and must be established in every state.

But the Thomist theory is most distinctly differentiated from that of the ancients by ascribing to the ruler of the state the duty of providing for the poor. In this we are on purely Christian ground, though Aristotle is laboriously dragged into the argument.[4]

[1] *De Reg. Princ.* II, 12.
[2] *Ibid.* cap. 12.
[3] *Ibid.* II, 14.
[4] *Ibid.* II, 15.

Two philosophical dicta of the Greek seem to have struck an especially responsive chord in the mediæval mind. They were these: "Nature is never wanting in necessaries," and "Art imitates nature." It was difficult to conceive a logical dilemma from which the scholastic dialectician could not extricate himself by means of one or the other of these. In proving that the state should provide for the poor the *Rule of Princes* uses both the favourite phrases. Thus: nature is never wanting in necessaries; the same must be true of art, which imitates nature; but of all arts that of governing is the highest; therefore those who exercise this art must not be wanting in necessaries to those who lack them. Moreover, the author gravely demonstrates that in alms-giving (*eleemosyna*) princes, who through their human weakness must go astray from time to time, have a sort of currency by which their debt of sin may be discharged. This argumentation, like so much that fills the volumes of scholastic lore, shocks the modern mind by the lack of relation between premises and conclusion; but nevertheless the conclusion itself as to the function of the state in charity is a most significant fact in the history of political theory. Though ancient practice in respect to the needy and suffering had not differed so widely from that of the Christian era, the ancient theory had embodied an idea of governmental responsibility for these classes that was at the farthest possible remove from that of St. Thomas. The enormous modern apparatus of public charity finds its first justification in political science in the bizarre

argument but humane conclusion of the passage which has just been summarized.

5. *The Secular and the Spiritual Power*

On the great question of the Middle Ages, that of the relation between secular and spiritual power, Thomas, a churchman of the straitest sect, could add nothing to the solution that had long since been elaborated by the great men of the institution of which he was a part. His contribution to the discussion was merely to clothe in the formulas of his method and to distribute accurately among the niches of his philosophical system the doctrines that had been moulded into definite form by his predecessors. The initial assumption of his whole philosophy was that certain truths, and those of the highest importance to man, were not demonstrable by reason but must enter human cognition through faith and immediate divine revelation. Such were the concepts of original sin, the incarnation and the sacraments. The depository of judgment and authority in respect to all matters concerned with this reserved field was the church, whose voice was final and was the voice of God himself. This primary dogma of St. Thomas necessarily gave to the ecclesiastical organization an overwhelming preëminence in relation to any form of merely human authority. But such preëminence was also demonstrable, he conceived, by purely rational methods. By Aristotelian doctrine, to govern is to bring the thing governed to its true end. But what is the true end of man? Not, as the ancients supposed, to

live according to virtue, but rather, through a virtuous life, to attain to the eternal enjoyment of God (*ad fruitionem divinam*). If this end could be obtained through merely human virtue, the function of the king — of the highest political power — would be sufficient. But since the end transcends mundane life, the government through which it is reached must be of a higher, that is, the sacerdotal, kind. Hence, while the king is supreme in temporal affairs, these must be directed to the higher end, and to this extent he is subject to the priest under the law of Christ.[1]

This is of course the long familiar case for ecclesiastical hegemony, thinly veneered with Aristotle. In the unauthentic part of the *Rule of Princes*[2] this general doctrine is carried out in a formal, but not novel, argument for the supremacy of the Pope. Noticeable, however, and in the full spirit of Thomas, is the careful and explicit limitation of papal jurisdiction to cases which involve a matter of sin.[3] This limitation was tending, in the height of the spiritual hegemony, to be more and more neglected.

In the *Summa Theologica*[4] the attitude of the Christian state toward infidels, including heretics and apostates, is concisely defined. A sharp line is drawn between those who have never received the faith, like Jews and pagans, and those who have lapsed from it into heresy or apostasy. The former are in general

[1] *De Reg. Princ.* I, end.

[2] *Ibid.* III, 10.

[3] Quamvis in omnibus istis summi Pontifices non extenderunt manum nisi ratione delicti. — *Ibid.*

[4] II, 2, quæst. 10–12.

to be tolerated; the latter, not. But especially important is the question whether infidels may justly exercise political authority over the faithful. Thomas distinguishes here. Setting up a new control of this kind the church cannot permit. As to an already established dominion the case is different. The relation of sovereign and subject is a matter of human law; the distinction between believers and unbelievers is a matter of divine law. But the divine law, which springs from the grace of God, does not destroy human law, which is based on natural reason. Hence, authority over Christians is not destroyed by the mere fact that the ruler is an infidel. But, Thomas hastens to add, if the church, in the plenitude of her power under divine law, decrees that the authority of the infidel shall cease, her word is conclusive. So also as to an apostate prince. The instant that the church declares him excommunicated for apostasy, his subjects are *ipso facto* released from his authority, and their oaths of allegiance lose all binding force.

6. *St. Thomas's Doctrine as Formulated by Ægidius Romanus*

The general character of St. Thomas's political philosophy is sufficiently indicated by what has already been said. Owing, however, to the fact that his *De Regimine Principum* was not finished by his own hand, the detailed development of his system was in many respects unsatisfactory, and was put in a much more worthy shape in a work of the same name by his devoted disciple, Ægidius Ro-

manus.[1] Both the master's treatise and the disciple's were designed as books of instruction for scions of royal houses, and doubtless owe some of their notable characteristics to that fact. A special interest attaches to the work of Ægidius in that the young prince for whose instruction the book was written was none other than he who, as King Philip the Fair, gave so severe a blow to papal dignity and prestige.

The plan of Ægidius's treatise involves a threefold division, comprising a system of ethics, a system of economics and a system of politics. That is to say, the character of a prince is determined by his personal morality, his domestic relations and his governmental activity, and each of these demands particular consideration. As to method, Ægidius is in the highest degree systematic and precise. Each of his books is a clearly distinguished division of the whole subject; each of his chapters is a precisely defined topic of the book; and in each chapter the doctrine enunciated is sustained by a series of arguments carefully propounded and numbered in advance. The result of this method, pursued as it is with unvarying consistency, is to give great clearness to the theory which the author is seeking to inculcate. As to the content of this theory, so far as politics is concerned, it may fairly be described as exclusively that of Aristotle and St. Thomas. Some writers have

[1] Known also as Ægidius Colonna, from the name of his family. A thirteenth-century French version of his work has been recently published by the Columbia University Press under the title *Li livres du gouvernement des rois*, edited by Dr. S. P. Molenaer (New York, Macmillan, 1899).

claimed a degree of originality for Ægidius,[1] but such a claim is very difficult to substantiate. That he put in a more intelligible form some of the doctrines of his master, is probably the utmost that can be said. A marked peculiarity of his treatise is that the church fathers are very rarely referred to. The same, indeed, is true as to St. Thomas. Aristotle, "the philosopher," furnishes the premises for perhaps nine-tenths of Ægidius's demonstrations; and for the remainder the argument follows, though without citation of the authority, the line already indicated by Aquinas. It will be useful, however, to dwell briefly on some features of Ægidius's work.[2]

St. Thomas's justification of the kingdom as a useful and "natural" form of association is amplified somewhat by Ægidius.[3] He demonstrates on Aristotle's own principles that an aggregation of cities (*civitates*) has a higher degree of self-sufficiency than a single one, both in respect to the material means of existence and in respect to the incentives to virtuous living. These are in addition to the advantage of a greater force for defence against outer foes, which is the consideration on which the chief stress is laid by St. Thomas.

In laying out the plan of his discussion of the government of a state in time of peace, Ægidius adopts a rather striking analysis of royal government into

[1] *Cf.* Molenaer, Introduction, p. xx.

[2] The political doctrines proper are contained chiefly in the third book. References are to the edition of 1482. For list of printed editions, see Molenaer, p. 457.

[3] Lib. III, pars. ii, cap. 5.

its elements.[1] The state must be ruled according to just laws; and these the prince enacts, the senate (*consilium*) devises, the judiciary (*pretorium*) applies to concrete cases, and the people observe. It is the function of the senate to seek for what is useful (*conferens*) and avoid the harmful (*nocivum*); of the judiciary to seek the just and avoid the unjust; of the people to seek the praiseworthy (*laudabilia*) and avoid the blameworthy (*vituperabilia*). Royal government, as thus constituted, is Ægidius's idea of the best form of political organization. His reasons for this conclusion are those of St. Thomas, but he adds a temperate argument for hereditary succession by primogeniture as the best rule by which to regulate the transmission of authority.[2]

In discussing the judiciary (*pretorium*), Ægidius sets forth his notions of law and rights, in which at several points are found very clearly stated ideas which were indicated but not so distinctly formulated by St. Thomas. Laws (*leges*) and rights (*ius*) are declared to be subject to precisely the same classification; for laws are merely "certain rules of right (*ius*) through which we determine what is just and what unjust in our actions."[3] And after pointing out the various kinds of right that have been distinguished by Aristotle and the jurists — written and unwritten, general (*commune*) and particular (*proprium*), natural and positive, *ius gentium* and *ius civile*, — he declares that all are practically reducible to two classes, — *ius naturale* and *ius positivum*.

[1] Lib. III, pars. ii, cap. 1. [2] *Ibid.* cap. 5. [3] *Ibid.* cap. 24.

Law, therefore, is reducible to the same categories; for example, the *lex humana* corresponds to the *ius humanum positivum*.[1] But like St. Thomas, and much more distinctly, Ægidius sets forth the importance of the element of personal volition and command in the conception of law. "Nothing is law unless proclaimed by him whose function is to direct to the common good; for if a law is divine and natural, it is enacted (*condita*) by God." And again: —

> Any one of the people can induce and persuade another to act rightly; but advice and persuasion of this kind are not called laws, because they have no coactive element (*nihil coactivum*). Only by an extension of the term law can all kinds of direction and advice be called laws.[2]

Ægidius's discussion of the subject of *lex* and *ius* reveals the completion of a movement that appeared first in the thought of Cicero, when he put forth his doctrine of the law of nature (*lex naturalis*).[3] This movement was toward the idea that all rights have their source in law. To the Roman jurists nature and reason were sources of rights even more than was law (*lex*). But to the mediæval mind nature and reason were identified in last analysis with the personal Christian God, and natural rights flowed from his will and were guaranteed by his coactive power. Natural law was in the fullest sense law; it possessed the same imperative and coactive elements as the legislative enactments of man. This conception was destined to long sway in jurisprudence and

[1] Lib. III, pars. ii, cap. 26. [2] *Ibid.* pars. ii, cap. 27. [3] *Supra*, p. 123.

politics. Only when, after the Reformation, the general respect for authority gave way, were philosophers able again to detach natural law from God and transfer it to impersonal human reason, and then to deny to it altogether the volitional quality which would give it the character of law.

7. *Summary*

In the perspective of history the Thomist political theory marks the end of an era. It is the calm dispassionate expression of a habit of thought and feeling which had received its character through centuries of strenuous conflict. The thirteenth century is less controversial than its predecessors; it manifests the distinctly philosophical quality of seeking rather to coördinate than to achieve. Ecclesiastical hegemony in social life is assumed and explained rather than debated. Monarchic government receives the theoretical justification which its general prevalence suggests. The kingdom, as the typical form of state, supplants the city, though the ancient idea on this point still remains influential and finds support not only in the theories of the omnipotent Aristotle, but also in the facts which the decline of imperial authority is making significant in the position and aspirations of Venice, Genoa, Pisa and other commercial centres of the Italian peninsula. Law, right and justice are cast in the mould and fixed upon the foundation which the religious and ecclesiastical development of past centuries had wrought out of Roman jurisprudence. All the fundamental concepts

of political theory are impressed by Aquinas with the character of dogmatic finality that springs from a conviction that controversy is past and that the emotions are under the permanent sway of pure reason.

But twenty years after St. Thomas passed away, Boniface VIII ascended the papal throne (1294). Promptly arose the conflict with Philip the Fair, and the fourteenth century opened with the age-long controversy of ecclesiastical and secular powers absorbing all the thought and energy of both. Philosophic calm disappeared at once under the flood of polemic passion. The quarrel of Boniface and Philip was followed soon by that of John XXII and Lewis of Bavaria, and this in turn by the sundering of the church in the Great Schism. So far from the settled and placid progress of Christendom under the principles which the Thomist philosophy had proclaimed as final, the fourteenth century presented, in both theory and practice, a condition of profound and widespread unsettlement. The trend of political speculation in the conflicts of this period was toward the rejection or radical transformation of what was most fundamental in the preceding century. A wholly novel spirit was manifested by the opponents of the papal hierarchy. Aristotle and St. Augustine were re-read and re-interpreted. The Bible itself was turned with energy if not with skill against the ecclesiastical hegemony. Within fifty years, in short, of St. Thomas's death, political theory abounded in heraldings of the Reformation and the Revolution.

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CHAPTER IX

THEORIES DURING THE DECLINE OF THE PAPAL HEGEMONY

1. *Pro-papal Doctrine*

The quarrel between Pope Boniface and King Philip has a special significance in the history of political thought for two reasons. In the first place it presented clearly the question as to the general relation of spiritual to temporal power, apart from the complications due to the peculiar history and traditions of the Empire. The French king made no pretentions to universal dominion, and his case against the Pope was just to that extent stronger. In the second place the matter of taxation, out of which chiefly the quarrel arose, involved the whole question of property rights, and so sharpened the issue to a point at which the purely temporal character of the interests concerned was undeniable. These two particular features of the controversy account in some measure for the fact that the arguments put forth in behalf of Boniface embody the most extreme claims ever made in respect to ecclesiastical jurisdiction. By this time the title of the Papacy to all the power of the church had passed practically beyond the field of controversy. The Pope was, so far as authority was concerned, the church.

And his power was now, by his most zealous supporters, asserted distinctly to include things temporal as well as things spiritual, and to extend over all the princes of the earth.

That Boniface himself officially committed himself to this position is not clear. He was a man of violent temper and corresponding speech, and may have used expressions privately, or even publicly, that he would not deliberately have put on record. He passionately denounced as false the allegation that he had asserted that Philip was subject to him in respect to the French kingdom and was bound to recognize his suzerainty. But he with equal explicitness declared that the king was subject to him on the ground of sin, and in a very peremptory letter ascribed to the Pope it is said without qualification: "We wish you to understand that you are subject to us in spirituals and in temporals." [1] There is some question as to the authenticity of this latter expression. But there is no doubt that the qualification, *ratione peccati*, was not regarded in papal circles as of more than theoretical significance, and that no practical limit excluded from ecclesiastical interference whatever business the church regarded as of interest to itself. The famous bull *Unam Sanctam* (1302), which was the official embodiment of the papal position, recited

[1] In a contemptuous reply Philip retorted: "Let your most distinguished Fatuousness be assured that in temporals we are subject to no one." The leading documents in this famous case are in Gieseler, Vol. II, p. 348, note 21.

the familiar doctrine of the two swords, the commission of Jeremiah and the other hackneyed texts, and ended with the formal declaration that "for every human being submission to the Roman Pontiff is indispensable to salvation." [1]

But if Boniface himself was careful not to carry the papal theory beyond the point reached by Innocent III, the less exalted debaters of the time very openly passed that point. In an unpublished tract of Ægidius Romanus,[1] who seems to have abandoned his royal pupil in the time of the quarrel with the Pope, the thesis is sustained that the ultimate ownership of temporal goods is in the church and hence is subject to the determination of the Pope. The reasoning in support of this view is cogent: The end of temporal things is the support of the body; the body is subordinate to the soul, which in turn is subject to the guidance of the Pope; therefore, the art of governing a people, the treatise holds, consists essentially in bringing them into proper relations with the laws of the church. No possessor of a piece of property by law of the state holds it justly save by authority of the church. The child who inherits property owes it less to his father than to the church; the father has begotten him according to the flesh, but the church has regenerated him according to the spirit, which is more than the flesh. And finally, infidels and, indeed, all who obsti-

[1] "Porro subesse Romano Pontifici omni humanae creaturae declaramus, dicimus, definimus et pronuntiamus omnino esse de necessitate salutis." [2] Summarized in Janet, I, 411.

nately remain without the fold of the church, have no just title to property.

This position was well calculated to sustain the cause of Boniface. After the death of the latter, his successors, Clement V and John XXII, made their peace with the French monarchy and, domiciled at Avignon under its influence and protection, engaged in hot conflicts with the Emperors Henry VII and Lewis of Bavaria. The issues here turned on the old contention as to the relation of the Pope to the Empire, and for the most part the pro-papal argument followed precisely the lines that we have already noticed in connection with Gregory VII and Innocent III. But in some particulars the protagonists of the Pope pushed the exaltation of the Papacy to a more extreme point than had ever before been reached. The friar Augustinus Triumphus seems entitled to the greatest distinction in this respect. In his work, *Summa de Potestate Ecclesiastica*, he ascribes to the Pope, as the vicar of God, many of the divine attributes.[1] "His jurisdiction is greater than that of any angel." Laymen are bound to obey him rather than any king or emperor. Even pagans are subject to him. Besides the plenary power (*plenitudo potestatis*) which he enjoys over the Emperor, to set up, depose or control, he can depose or set up any king whatever, though in respect to kings Augustinus still qualifies — "when there is reasonable cause." That is, the old qualifi-

[1] A full analysis of the work is given in Friedberg, *Die mittelalterlichen Lehren über das Verhältniss von Staat und Kirche.* *Cf.* also Poole, *Illustrations of Mediæval Thought*, p. 253; also Gieseler, III, 33.

cation, "*ratione peccati*," which was vague and elastic enough, gives way to the infinitely less determinate "*causa rationalis*"; and it is carefully explained that any delinquency of either people or king is good ground for papal action in either deposing or instituting a king. Nor will Augustinus permit the lord of all the world to refrain from using his authority. "The Pope cannot exempt any one from his power in temporals," for this would be to deny that he is the vicar of God. And finally, the plenary power of the Pope in the matter of tithes is defended in this far-reaching argument: "Private property ceases to be such by natural law in case of necessity, by divine law, for the sake of charity, and by the civil law, for the benefit (*utilitas*) of the state": but the Pope, as the vicar of God, is the interpreter and ordainer of all law; therefore he can at his discretion, on either of the grounds, take the property of private citizens, and even of kings and other potentates.

This magnificent conception of the papal power found very little support in the actual conditions which prevailed when it was formulated. Indeed, the exaggeration of the ecclesiastical pretensions in theory proceeded *pari passu* with the decline of the papal prestige. The policy of the curia at Avignon was pretty generally recognized as guided from Paris, and because of this even the German princes who had so often been the mainstay of the popes against the Emperor now stood by Lewis of Bavaria. In Italy also the respect for papal authority, whether spiritual or temporal, steadily declined. And while the exter-

nal conditions were shaping themselves thus, in the field of speculation and debate a corresponding movement was revealed by the volume and the spirit of that literature in which the papal pretensions were assailed and confuted.

2. *New Elements in the Anti-papal Theory*

The fourteenth-century adversaries of the Papacy manifested in every instance a more confident and aggressive spirit than that found in the earlier advocates of princely independence. The latter were at the best feeble and halting in their argument and were obviously conscious that they were on the defensive and that the spirit of the age was against them. Not so the men of the fourteenth century. Their works abound in revelations of new forces working in the thought of the time — forces which were all on the side of the secular authority. In form and method the philosophic literature of the fourteenth century retains and intensifies the characteristics impressed upon it by the preceding scholastics. The dogmas of authority are cited and are refuted by opposing dogmas; all literature, sacred and profane, is ransacked for fables that can be exploited to sustain a cause; syllogistic deductions are elaborately demonstrated to contain the formal fallacies of the syllogism; distinctions that cannot be seen by the modern mind to distinguish are triumphantly brought to the determination of every conflict of great authorities; and "the subtle manipulation of unverified words," as John Morley calls it, reaches its climax in the monstrous

verbal output of the *Doctor Subtilissimus*, William of Ockam.[1] But the tiresome method and form of the literature do not conceal the new elements in the thought of the writers. While the ancient arguments from the texts of the Scriptures and the church fathers are always dealt with at length, there appear in addition, and often with even greater emphasis, an appeal to the doctrine of Aristotle and an extensive recourse to the canon and the civil law.

St. Thomas had, as we have seen, ingeniously applied the philosophy of the Greek to the purposes of his own system. But it was quite open to the opponents of Thomas's political doctrine to avail themselves also of the Aristotelian principles. Indeed, no speculation of any sort was now formally complete without some basis in those principles. Hence we find the antagonists of the popes drawing freely from "the philosopher." And it is easily conceivable that the innermost spirit of the Greek's thought, alien as it was to the ecclesiastical spirit of the Middle Ages, gave most stimulus to those who were at war, though unconsciously, with what was characteristically mediæval.

On the other hand, the legal and juristic influence which wrought so powerfully in the controversies of the fourteenth century contributed to the cause of the secular power less through theory than indirectly through fact. All the set arguments in behalf of princes against the Papacy included ex-

[1] For an amusing judgment on Ockam, and a frank *non possumus* as to understanding him, see Janet, I, 446.

haustive discussions of Canon and Civil law.[1] The Canon law had by this time become a large body of principles and rules derived from the decretals of popes and commentaries (*glossæ*) thereon; the Civil law consisted of Justinian's Digest and the commentaries that had accumulated since the revival of legal studies in the twelfth century. Through the development of the Canon law into a system, universally applied in the ecclesiastical courts, the advantage derived by the secular rulers from the Roman law[2] had been neutralized. In the varying phases of the controversy over jurisdiction, the jurists of the Civil law — the Civilians — were confronted by an equally well-trained body of Canonists. Each strove to demonstrate the supremacy of his own system of authority. From the standpoint of pure theory the controversy was indecisive. But the keenness of the discussions and the activity of the lawyers had a practical result when Philip the Fair and other princes began systematically to extend the jurisdiction of the royal courts at the expense of both lay vassals and the church. In this policy the lawyers were always ready with plausible grounds in both Civil and Canon law for the extension in view, and with this support in theory the physical force of the secular ruler could always

[1] *Cf.* the treatise entitled *Quæstio de Utraque Potestate*, in Goldast, *Monarchia Sancti Romani Imperii*, II, 106. The author proclaims his purpose to prove that the Pope has no *dominium* in temporals by four arguments, *viz.*: "Per rationes physicas" (Aristotle); "per rationes theologicas" (the texts of Scripture and the fathers); "per jura canonica"; and "per jura civilia."

[2] *Cf. supra*, p. 180.

be depended upon in last resort to make his claim of right prevail. With every successful assertion of the royal power the influence of its juristic advisers became more noteworthy, and thus the lawyers and their methods of thought assumed a leading place in the consolidation of national monarchies which was just beginning.

Besides the Aristotelian and juristic doctrine that gave a new tone to fourteenth-century theory, the singular prominence assumed by the French monarchy profoundly modified the trend of speculation. The relative insignificance of imperial power as compared with that of Philip the Fair could not be disguised, and accordingly the universal dominion of the Emperor — so long a postulate of mediæval theory — began to lose its hold along with the temporal pretensions of the Pope. Its strongest supporters, indeed, were now to be found among the advocates of the papal pretensions. Boniface VIII himself, in memorable words, relegated the French king and his people to the sovereignty of the Emperor. "Let not the Gauls say in their arrogance that they recognize no superior. They lie; for of right they are and ought to be subject to the King of Rome and the Emperor."[1] The motive for this suggestion is obvious. At this time the power of the Pope over the Emperor was notorious, and Boniface was arguing primarily his own case, not that of the Emperor.

[1] "Nec insurgat hic superbia Gallicana quae dicit quod non recognoscit superiorem. Mentiuntur; quia de jure sunt et esse debent sub rege Romano et Imperatore."

What small influence the claim had in France appears from the projects that were openly put forth by Philip's advocates, looking to the extension of the king's power over all Europe in the interest of peace.[1] The Empire had become, in fact, a mere thing to conjure with, but without serious significance. Not only did the French lawyers cast aside with disdain the idea of universal temporal dominion and set forth in elaborate arguments the claim that it was irrational, but even the ablest and clearest headed of imperialistic writers evaded committing himself to its assertion and defence.[2]

3. *The Supporters of Philip the Fair*

Underlying all the reasoning by which the case of Philip against Boniface was sustained was the more or less conscious sentiment of French nationality. The ethnic and geographical elements of this thought appear in the designation of the king sometimes as *Rex Franciæ* and sometimes as *Rex Francorum*, while the most conclusive manifestation of the thought was the practically unanimous support given to the king by all orders of his subjects.

In the controversial literature of the time the independence of the French monarchy is sustained by earnest, if somewhat uncritical, appeals to history. Philip's reply to one of the Pope's fulminations asserts concisely the argument from antiquity: "Before there were any priests, the King of France

[1] See next section.

[2] Marsiglio, *Defensor Pacis*, I, 17.

had the care of his kingdom and could make laws for it." [1] The details of this contention are found in a short treatise entitled *De Utraque Potestate*.[2] It is set forth that after the fall of Troy twelve thousand Trojans settled in Pannonia, where they remained until the Emperor Valentinian expelled them for their persistent refusal to pay tribute to Rome. They moved to Germany near the Rhine, took the name of Franks on account of their invincible courage in resisting Rome, and ultimately occupied Gaul. Thus, the writer says, they were never subject to either the Emperor or anybody else. But, he continues, with a characteristic change of base from history to law, even if ever at any time they were subject to any emperor or pope, it must have been very long ago, and their independence rests securely enough on prescription; for by the Canon law itself a prescription of one hundred years runs against the Roman church.[3] From the standpoint of either fact or law, thus, the king is free from responsibility to the Pope. His right is divine right. "He holds and possesses his kingdom immediately of God alone;" and the sacred source of his power is testified, the writer declares, by the miracles which the French monarchs have wrought.

[1] "Antequam essent clerici, Rex Franciae habebat custodiam regni et poterat statuta facere." *Cf.* John of Paris in the work treated below: "Prius fuerunt reges Franciae in Francia quam Christiani."

[2] In Goldast, *op. cit.* II, 106.

[3] "Nam etiam contra Romanam Ecclesiam currit praescriptio centenaria."

In a more elaborate work[1] in behalf of Philip by John of Paris, the philosophic basis of the kingdom (*regnum*), as distinct from the Empire and the ecclesiastical hierarchy, is effectively laid down. Conceding that the organization of the clergy under a single monarchic head is altogether desirable, he argues that the same is not true as to temporal rulers.[2] The reasons he sets forth are noteworthy, as indicating the reaction from the idea of universal empire. The faith necessary to salvation, he declares, is one and the same everywhere, and hence requires unity in ecclesiastical control. But in their non-spiritual aspects and relations Christians are most diverse and require leadership corresponding to this diversity. Moreover, for one man to rule the whole world is possible in spirituals, but not in temporals. The former government works through mere words, while the latter works through force; and it is easy enough to send words everywhere, but impossible to exercise force effectively at long range. And finally, the property of laymen in their temporal relations is individual, while that held by the clergy belongs to the whole body of the church; therefore a single steward (*dispensator*) is not necessary in the former case as in the latter.

That the Pope is steward, rather than owner (*dominus*), of the property pertaining to the church,

[1] *De Potestate Regia et Papali.* In Goldast, II, 108.

[2] The title of his third chapter is: "De ordine ministrorum ad unum summum; quod non est necesse omnes principes ad unum reduci, sicut ministros Ecclesiae ad unum supremum."

is the very backbone of the royal defence. And in sustaining this thesis great ingenuity is employed on purely legal concepts. The whole subject of property rights is exhaustively investigated. John of Paris contends, for example, that the Pope, even if he had ownership as to the possessions of laymen, would not on that account have jurisdiction over them; for jurisdiction is quite a different concept from ownership, and pertains to the prince. Furthermore the Pope, in exercising the supreme stewardship which he enjoys in respect to ecclesiastical goods, is bound to be guided himself by the good of the faith. Failing this he may be deposed.

The deposition of the Pope was at this time a common topic with the supporters of Philip. John of Paris held that such action would justly follow persistent hostility to the French king. But the right to depose was not ascribed to the king; in this respect his purely national authority left no room for such claim to regulate the Papacy as was set up for the Emperor in the character of divinely established universal monarch. The instrumentality to which Philip's lawyers made resort in their projects of deposition was the general council of the church. The bearings of this idea, that a general council, rather than the Pope, was the depository of ultimate ecclesiastical sovereignty, will appear more particularly in later pages.

Of all the writings in behalf of Philip the Fair the most noteworthy and original are those of Peter

Dubois,[1] a jurist high in the councils of the king. Dubois presents no set scholastic argument for the royal cause, but, for the realization of certain mediæval ideals, proposes methods that frankly ignore all the broad political conceptions that are characteristically mediæval, and rest on a view of existing conditions that is almost brutally practical. His two chief works embody respectively a project for the speedy and successful termination of the wars and controversies in which the French monarchy is engaged, and a scheme for the recovery of the Holy Land from the infidels. The basal thought in each work is that the French king is, regardless of all the traditional theories as to imperial and papal supremacy, the only possessor of actual political power sufficient for the highest welfare of Christendom. Theoretically the Pope, as a political ruler, is above the Emperor by the Donation of Constantine. But it requires force to assert this power, and sufficient force the Pope of himself can never possess. Dubois sets forth, with a calm cynicism that suggests Machiavelli, the emptiness of right without might. The Pope is no warrior, and ought not to be; his business is to save souls, while by meddling in politics he has sent many to hell. Moreover, the men who are elected popes are generally decrepit old men, without that family influence and connection which are essen-

[1] For a full account of his life and works, see Renan, *Études sur la politique religieuse de Philippe le Bel.* The text of the *De Recuperatione Terre Sancte*, edited by Langlois, is in the *Collection de textes pour servir à l'étude de l'histoire*, Paris, 1891. *Cf.* also Poole, *Mediæval Thought*, p. 256 *et seq.*

tial to wide power in temporal affairs. They should confine themselves therefore to their spiritual ministrations. Meanwhile, their temporal functions and their temporal revenues should be committed to the administration of some one competent to perform the task well. No one is better qualified for this task than the French monarch; and thus the essence of the writer's project is revealed to be, that the King of France shall appropriate to his own use the territories of the Pope and employ them in asserting a leadership over Christendom.

The same underlying idea is manifest in the scheme for the recovery of the Holy Land. The disastrous failure of all efforts in this direction has been due to the disunity of Christendom, a condition for which the feebleness of the Papacy has been largely responsible. But with papal influence confined to spirituals, and with temporals under French hegemony, success will be assured. Dubois dwells with especial iteration on the demoralizing effects of the free use by the Popes of excommunication; it brings, he holds, damnation to many souls, without exercising upon the actions of men so much positive influence as do temporal penalties. His project involves, in addition to the special points just noted, suggestions of very wide social and political reforms in Christian Europe as preliminary to the great enterprise against the infidels. Though many of his notions are hopelessly unpractical and visionary, the spirit in which he presents them is remarkable, and foreshadows the approaching philosophy of the Renaissance.

4. *The De Monarchia of Dante.*

Of the thinkers who contributed to the anti-papal doctrine from the standpoint of the imperial interest, Dante Alighieri is noteworthy rather for triteness than for novelty in the substance of his thought. While the French writers and his own associates in the imperial cause were propounding doctrines that breathed forth the spirit of a new age, Dante brooded over the past. His Latin work, *De Monarchia*,[1] is in substance a plea for that secular world-empire which had had a basis of reality in the days of the Hohenstaufen, but had since become the shadow of a name. Dante's genius gave to his treatise a form, however, which makes it logically the most complete and perfect system that we have of imperialistic philosophy. The manifold and confused argumentation by which the cause of the emperors had been for centuries upheld is so condensed, and its elements are so correlated, as to present a clearly defined and impressive ideal of the system. To this end are made to contribute the Aristotelian metaphysics and politics, Roman and Jewish history and the Civil and Canon law, as well as the myths and the texts of Scripture which were still on every tongue.

By "monarchy" Dante means universal dominion over all things temporal,[2] and monarchy in this sense

[1] The date of the work is uncertain. It is held by many to have been suggested by the expedition of Henry VII of Germany to Rome in pursuit of the imperial crown, and to have been written about the time of that event, 1310–13.

[2] Unus principatus et super omnes in tempore vel in iis et super iis quae tempore mensurantur. — Bk. I, c. 2.

is the theme of his work. The three books into which the work is divided deal respectively with three questions: (1) whether such monarchy is essential to the well-being of the world; (2) whether the Roman people rightfully acquired the monarchic office; and (3) whether the monarchic authority is derived immediately from God, or rather from some servant or vicar of God. The answer to the first question takes the form of a set plea for universal empire as a condition of human welfare. By recourse to Aristotle, Dante demonstrates that the indispensable prerequisite of man's perfect existence is general peace, and then proceeds to show that this condition is attainable only by a unified governmental system under a single head. Only in such a system is the unity of human nature and human destiny duly expressed, and the unity of the Creator rightly imitated.[1] Only in the world-monarch can be found a final court of appeal for the decision of princely controversies.[2] And in the government of such a ruler must be the maximum of justice: for justice depends upon power and will; and the world-monarch, by the nature of his position, possesses both the absolute power and, because envy and desire cannot exist in one so perfectly situated, also the immovable will to do justice.[3] By like reasoning, Dante demonstrates that real liberty is most to be found in the universal monarchy, and that the concord of wills that is essential to peace and happiness is insured in the dominance of the one imperial will. He does

[1] Bk. I, c. 5. [2] *Ibid.* c. 12. [3] *Ibid.* c. 13, 15.

not intend, however, that the local authorities of earth shall all be obliterated by the one supreme government. The particular characteristics of different peoples must be regulated by different systems of law,[1] while the monarch coördinates all the various communities to the ultimate end of peace.

Assuming, then, that world-monarchy, or empire, is the ideal system of government, Dante's next thesis is that the Roman people acquired the imperial authority of right (*de iure*) and by the will of God. This he sustains first by an interpretation of early Roman history on Virgilian lines, showing that the heroes of royal and republican ages were embodiments of supreme virtue and true nobility, and that the conquests of the Romans were always consciously directed to the public good.[2] And in the very fact of their unprecedented success he sees conclusive evidence of divine sanction. "The people which triumphed over all the other peoples that contended for the empire of the world, triumphed by the judgment of God."[3] For the ordeal by battle is the final test of justice. "What is acquired by duel is acquired by right."[4] Combat (*collisio*), Dante explains, whether by force of mind or force of body, must always determine in last instance where justice lies, in the affairs

[1] Habent namque nationes, regna et civitates inter se proprietates quas legibus differentibus regulari oportet. — *Ibid.* c. 16.

[2] Declaranda igitur duo sunt: quorum unum est quod quicunque bonum reipublicae intendit finem iuris intendit; aliud est quod Romanus populus, subiiciendo sibi orbem bonum publicum intendit. — Bk. II, c. 6.

[3] *Ibid.* c. 9.

[4] Quod per duellam acquiritur de iure acquiritur. — *Ibid.* c. 10.

either of individuals or of peoples; and he sets forth in some detail the theory of the ordeal by battle, combining the purely mediæval conceptions on this point with something vaguely suggestive of the modern "struggle for existence." Finally, the rightfulness of Roman world-rule is deducible, he holds, from the principles of the Christian faith and the doctrine of the atonement. For Christ, bearing the sins of the whole human race, could have truly expiated them only through a penalty imposed by an authority having jurisdiction over the whole race. Hence, the very fact that he suffered under Pilate, the vicar of Tiberius, proves that the Roman dominion was universal *de iure*.[1]

That the Empire of his own day is the direct successor of the old Roman Empire, embodying all the rightful authority of the latter, is tacitly assumed by Dante, and the concluding book of the *De Monarchia* is devoted to a somewhat acrimonious attack on those who hold that the imperial title and authority are derived from the Pope, and to a systematic refutation of their arguments. Toward "those who call themselves Decretalists"[2] he is especially severe, and their assertion that tradition is the foundation of the church is the text of a destructive criticism.[3] "The traditions which are called Decretals" are indeed, he says, to be venerated; but it cannot be doubted that they must

[1] For this very curious argument, couched in the precise forms of the syllogism, see Bk. II, c. 11.

[2] Those, that is, who argue chiefly from the Canon law.

[3] Bk. III, c. 3.

yield precedence to the Scriptures as the true foundation of the church. In this more than in any other passage of his work, Dante speaks with the voice of the fourteenth century, foreshadowing the great reform. When, however, he proceeds to combat seriatim the arguments for ecclesiastical supremacy, he gets but little beyond the anti-papal writers of the preceding two centuries. He depends more on the Aristotelian formal logic and the concepts of jurisprudence than on Scriptural texts, and in this consists the chief distinction from his predecessors. With analysis that is often acute and ingenious but also often puerile, he takes up the familiar arguments — the sun and moon, the two swords, Saul and Samuel, the commission to bind and loose — and proves them fallacious either formally or in substance. To the Donation of Constantine he devotes especially earnest consideration,[1] elaborately contending, not that the alleged gift was never made, but that the Emperor had no right to make it — that unity was the essence of the Empire and a division was in the power of no man. And the "translation" of imperial power to Charlemagne is dismissed with the curt comment: "Usurpation of right makes no right."[2] Dante's final conclusion on the whole matter is that the Pope has not received either from God, or from any emperor, or from the whole or a majority of the human race, any share in the imperial authority, and hence cannot bestow it on the Emperor. On the contrary, God has directly created the two distinct species of authority

[1] Bk. III, c. 3.

[2] Usurpatio iuris non facit ius.

that are essential to man's welfare, and has directly bestowed one species on the temporal world-monarch.

5. *The Conflict between Lewis of Bavaria and Pope John XXII*

Dante's formulation of a rationalistic theory of the Empire was clearly prompted by the anarchic conditions in Italian politics. The *De Monarchia* was a Ghibelline manifesto against the pro-papal Guelfs. During the last years of Dante's life[1] Germany also suffered from the demoralization of a desperate civil war, on the question of succession to the crown. Pending the outcome the Pope, John XXII, asserted and enlarged the old papal claim of a right to exercise imperial powers in case of vacancy in the imperial office. Refusing to recognize either of the rivals in Germany, he strengthened in every way the position of the Guelfs in Italy and prepared to wield, like Innocent III, a decisive, direct influence in German affairs. The civil war ended in the triumph of Lewis of Bavaria,[2] who assumed the dignity of German king, and at once manifested a purpose to assert his rights as Emperor in Italy. This brought forth from the papal court at Avignon a series of decrees which, by excommunication of Lewis and his supporters and interdict upon the regions that recognized him, reproduced the conspicuous phases of the famous conflict over investitures. The struggle thus begun continued, through many fluctuations of

[1] He died in 1321.

[2] By the victory at Mühldorf, 1322, over Frederick of Austria.

advantage, to the end of the monarch's life, in 1347, and was the occasion of an enormous controversial literature. But though the lines of the formal debate were the old lines of antithesis of universal secular and universal spiritual power, the unsubstantial character of the actual Empire was clearly in the consciousness of the age; and it was recognized that the essence of the complex situation was the national rivalries of France and Germany and Italy.[1] Behind the Papacy the policy of the French kings was not hard to detect, and the aspirations of the Italian princes and cities to independence were hardly disguised by their affiliations with papal or with imperial policy. In a general way the dogma of the world-sway of the Emperor had for its practical end the maintenance of German ascendency in Italy, and the dogma of papal suzerainty, for its end the extension of French dominion at the expense of Germany.

Under such circumstances political philosophy would probably not have been greatly enriched during this period had not a doctrinal controversy within the church itself alienated from the Pope some of the keenest and best-trained minds of the time, and driven them to the support of the imperial cause. In 1322 John XXII formally condemned, as heretical, the tenet of evangelical poverty which was held by the powerful Franciscan order, and summarily ended the practice through which the friars became

[1] *Cf.* Riezler, *Die literarischen Widersacher der Päpste zur Zeit Ludwig des Baiers*, p. 9 *et seq.*

wealthy in spite of their vows.[1] This action brought upon the Pope the most violent denunciations from a group of ecclesiastics, Franciscans and their sympathizers, including Marsiglio of Padua, John of Jandun, Michael of Cesena and William of Ockam. Theological learning and dialectic skill were conspicuous in this group, and the treatises that they poured forth brought John XXII under imputation of heresy, with which, indeed, his assailants openly charged him. For men engaged as they were in attacking the Pope, Italy and France at this time furnished no safe place of abode; hence, when the conflict of the German king with the Pope developed, they betook themselves to Germany, and continued at the court of Lewis to wage strenuous literary warfare on the Papacy and all its works.

The concurrence of a theological with a more purely political issue accounts for many of the prominent characteristics of the pro-imperial literature and doctrine. It was, in the first place, much more strongly anti-papal than pro-imperial. It nowhere sets out in so clear and well-defined a form as we see in Dante the conception of universal monarchy. It dwells more on the shortcomings of the Pope and the existing evils in the church than on the inherent power and excellency of the state. And it is essentially in the search for ways and means of purify-

[1] The ownership (*dominium*) of things by Christ and the apostles was denied by the Franciscans, and only the use (*usus*) admitted. So the ownership of things donated to the order had been ascribed to the Roman church, while the use was retained by the friars. *Cf.* Gieseler, *op. cit.* III, p. 121 *et seq.*

ing the church from heresy and maladministration that the most striking contributions to the theory of the state are made. From an heretical or a tyrannical Pope the church, it was declared, can only be saved by recourse to the whole body of believers. Hence, we find the supporters of the Empire reviving the idea which had had such vogue twenty years before in France — that the ultimate authority in the church must be found in the general council. For such a theory the Empire formed a much more secure foundation than any kingdom; for the traditions of conciliar action in the early church all showed the Emperor as the mainspring of power.

6. *Marsiglio of Padua*

Of the numerous works put forth by the writers named above the most noteworthy for our present purpose is that entitled *Defensor Pacis*, the joint production of Marsiglio of Padua and John of Jandun, but generally ascribed exclusively to the former.[1] This treatise, not voluminous according to the standard of the times, presents a theory of state and of church that is in many respects out of all relation to the current of mediæval thought and accords with the full spirit of the Reformation and the Revolution; and the vigour of the writer's dialectic is quite equal to the radicalism of his views. In the title,

[1] The work is printed in Goldast, II, 154, and in several separate editions. *Cf.* Riezler, *op. cit.* 193. See also Sullivan, "Marsiglio and Ockam," in *American Historical Review*, Vol. II, pp. 409, 593. I have used the edition of Frankfort, 1612.

The Defender of the Peace, is suggested the same basis which Dante had used in supporting the Emperor — the necessity of some authority capable of maintaining order. Marsiglio duly laments the turbulence and disorders of the times, and duly defends the imperial power. On the other hand, he dwells at great length on the luxury and extravagance that prevail and the corrupting pursuit of wealth, maintaining as the corrective for this the righteousness of Franciscan poverty. His doctrines on these two points are not distinguishable from those of the other anti-papal writers. But in his theory as to the organization and the powers of political and ecclesiastical societies, he strikes out a new path.[1]

The substance of his doctrine as to the origin and end of political life is taken from Aristotle. Association springs from the nature of man, and government is a necessity of social existence. The working force in rational government is law, and in the law-maker is the essence of the state. On this point Marsiglio dwells with the utmost particularity, and he develops from it with great precision the principle of popular sovereignty: —

> According to truth and the opinion of Aristotle the legislator . . . is the people, or a majority of them . . . commanding or determining that something be done or refrained from in the field of social human action, under pain of some temporal punishment.[2]

[1] The *Defensor* is divided into three parts, of which the first deals chiefly with the state, the second with the church, while the third is a concise statement of forty-three "conclusions" which embody the substance of his doctrine.

[2] *Defensor*, Bk. I, c. 12.

The legislator's will may be expressed either by the assembly of the citizens acting directly, or by some individual or group to whom the authority has been delegated. But in the latter case the "legislator," in the strict sense, is still the people; the delegate is but the agent. Adhering rigidly to this distinction, Marsiglio draws a clear line between the legislative and the executive functions in government. The executive organ he calls the *pars principans*, and in this category he includes monarchs.

The concept of popular sovereignty had been, as we have seen, thoroughly incorporated in the Roman law, and it was a commonplace of the legists that the Emperor was the representative of the people. But Marsiglio's exposition of the concept exhibits much more conspicuously the spirit of the Greek republics, where the application was practical, than that of the Roman Empire, where the application was purely theoretical. He dwells at length, for example, on the duty of the "*legislator*" to punish the "*principans*" for violations of the law[1]—a doctrine that has little in common with the jurists' maxim, *princeps legibus solutus*. There does not appear in the *Defensor* any conception of the Emperor as the omnipotent ruler of the world. Marsiglio, despite the circumstances under which he wrote, is far more faithful than Dante to the actualities of the fourteenth century. The imperial office *per se* does not appear at all, in fact, among the features of Marsiglio's purely political system. Inferentially it might be included in the cate-

[1] Bk. I, c. 18.

gory of elective monarchy, to which some attention is devoted, and for which, as compared with hereditary monarchy, a scientific preference is indicated.[1] But that in a work designed to sustain the cause of the Empire, so slight regard is paid to the traditional significance of the Emperor, proves that Marsiglio was as well endowed with audacity as with insight.

The full import of Marsiglio's theory of the state only appears when he presents his theory of the church, which is really the chief topic of the book. The doctrine of popular sovereignty is carried bodily over into the ecclesiastical field and is made the basis of his whole treatment. In the first place the church is conceived as a social aggregate existing by virtue of God's plan of human life. The essence of the church, therefore, is not at all the priesthood alone, but the general body of believers.[2] As in any other aggregate of individuals, then, the ultimate authority, under God, is in the whole, not in any part. The organ for the expression of this authority is the general council — the assembly of all Christians or of their delegates, so chosen that every important province or community of the earth shall have a representation proportioned to the number and character of its inhabitants.[3] The laity as well as the clergy must have

[1] Bk. I, c. 16.

[2] After discriminating between the different senses in which the word *ecclesia* is used, he declares this to be "*verissimam et propriissimam:* universitas fidelium credentium et invocantium nomen Christi." — II, 2.

[3] Secundum proportionem in quantitate ac qualitate personarum — II, 19 (in Goldast, c. 20, on account of an error in numbering that begins with c. 7).

a part in the assembly, though the latter element is especially desirable on account of their training in the divine law. In this general council, acting by majority vote, lies, according to Marsiglio, the power to fix definitively the interpretation of the Scriptures, to pass the sentence of excommunication, to regulate the ceremonial of Christian worship and to fill the offices of church government. Whatever corresponds in spiritual life to legislation in temporal is in the competence of this supreme assembly, and the officials of the ecclesiastical hierarchy, from the Pope down to the humblest acolyte, are subject to its determinations.

But it is as far as possible from Marsiglio's thought to recognize anything more than a mere analogy in the comparison of ecclesiastical with civil organization and functions. Between the two he makes a distinction in kind that is as radical as has ever been made even in the heyday of Protestantism. There is not in the church, he holds, any element of jurisdiction or coactive power in the true sense of these terms. Its function is purely to promote in men the faith that leads to salvation in the future life. Its method is to teach men the true way and to persuade them to enter it, but compulsion in any sense is beyond its sphere. Hence, the general council itself, much less any particular ecclesiastic, cannot enforce its conclusions. This body, indeed, finds the ultimate cause of its assembling in the importance of avoiding scandal and disorder in the temporal life of Christian peoples. Hence the power

to convoke a council, to pass upon its membership, and to enforce its opinions upon both clergy and laymen is in the supreme human legislator, or sovereign. Not even the purely ecclesiastical penalties of interdict and excommunication can be employed save by the authority of the legislator; for their application by irresponsible persons interferes with the peace and quiet of the faithful, which it is the function of the secular ruler to defend.[1]

The minute analysis to which Marsiglio subjects all the conflicting claims of the secular and the spiritual authorities results in reducing the rôle of the latter to as humble proportions as those assigned to the former by the extremest pro-papal debaters. His attack on the hierarchy is as keen on the side of doctrine as on that of external history. The power of the keys and the power to bind and loose, which summed up the largest pretensions of the priesthood, are shattered by his powerful attack. Not only does the authority implied in these terms include nothing of temporal import, it does not even signify real power in the spiritual sense. It is not the priest that forgives the sin and remits the penalty to the sinner. God alone judges in these matters, and the function of the priest is merely to certify to the divine act. The priest is indeed the bearer of the keys of the kingdom of heaven, but he bears them in the capacity merely of turnkey (*claviger*) — no wielder of jurisdiction, but a humble servitor.[2] This dictum of Marsiglio furnishes the

[1] *Defensor*, II, 20.

[2] II, 6, end.

obverse of that concept noticed above, in which the secular ruler figures as the hangman.[1]

It goes without saying that the *Defensor Pacis* embodies the most radical antagonism to the Petrine dogma in all its bearings. The Bishop of Rome is emphatically placed on a plane of precise equality with every other bishop so far as the possession of jurisdiction is concerned. As to dignity, Marsiglio concedes that some gradation is expedient for the convenience of administration and direction in spiritual life, and that in such gradation a preëminence may properly be assigned to the Roman see. But, in general, his whole attitude toward the historical development and the dogmatic supports of the Roman church is precisely that which was assumed by the Protestants after the Lutheran revolt.

7. *William of Ockam*

Far more prolific than Marsiglio in literary product, but distinctly less influential on the side of political theory, was the celebrated Englishman, William of Ockam.[2] The method adopted by Ockam in his principal works makes it impossible for the most careful reader to ascertain the writer's opinion on more than a very few of the subjects discussed. On the ground that truth would gain nothing by the

[1] *Supra*, p. 185.

[2] See his biography in the *Dictionary of National Biography*. His life and works are also treated at length by Riezler, *op. cit.*, and a valuable study of his relations with Marsiglio and the relative influence of the two is made by Sullivan, *American Historical Review*, *loc. cit.*

revelation of his personal belief, and that scandal to the faith might be caused by dogmatizing on either side of the great controversies of the time, he deliberately cast his works in the form of academic disputation, in which both sides are stated with the utmost fulness, but no decision is allowed to appear.[1] Moreover, every question proposed is analyzed into its elements with extraordinary subtlety, and the pros and cons of each element are fully given, with the result that the general trend of the discussion is at times wholly lost sight of. Under such circumstances it is only possible to assume the general hostility of Ockam to current papal pretensions, and to regard his writings as a storehouse of reasoning in that sense. Every form of argument that had ever been adduced against ecclesiastical and papal predominance is to be found in Ockam, together with many which his own subtle intellect evolved. On the other hand, the positive claims of the Empire receive analogous treatment, and, in his exposition of the functions of the secular power in general and of the Empire in particular, the writer furnishes abundant evidence that he is conscious of the influences that moved Dante and Marsiglio.

The two works of Ockam in which the doctrines of political philosophy are extensively discussed are the *Eight Questions concerning the Power and Dignity of the Pope* and the *Dialogue*,[2] the former a short and the other, even in the incomplete state in which we

[1] *Cf.* the peroration of the *Octo Quæstiones* and the prologue of the *Dialogus.* Goldast, II, 391, 398. [2] Both in Goldast, II.

know it, an enormously long treatise. His general point of view seems to be rather more that of Dante than that of Marsiglio. That is to say, the universal Empire rather than any less mediæval conception is most conspicuous in his thinking. He gives much attention to the Aristotelian *Politics*,[1] but he does not push its principles to the extremes reached by Marsiglio. Monarchy seems to be his preference for governmental organization, though the purely executive character of the monarch's office is not dilated upon. His interpretation of Aristotle's classification of monarchies dwells particularly on the distinction between the despotism, the tyranny and the royal monarchy (*principatus regalis*), with a noteworthy emphasis on the last, of which he declares it to be the characteristic mark, that the ruler, while free from all restraint of human law, is nevertheless subject to the law of nature.[2] This particular idea was destined to have, as we shall see, a distinguished career in the annals of absolute monarchy. In applying Aristotle's doctrines to contemporaneous conditions, Ockam follows St. Thomas and Ægidius Romanus[3] in regarding the kingdom as subject to the same fundamental principles as the city-state. Each is a form of association (*communitas*), the one of persons dwelling together, the other of those who, while dwelling in places that are distant from one another, nevertheless have many things in common and are governed by the same prince. Hence much that is

[1] *Cf. Dialogus*, Pt. III, Treatise I, Bk. 2, at large.
[2] *Ibid.* c. 6.
[3] *Supra*, pp. 197, 209.

true of the city-state must, he holds, be understood as applicable proportionately to the kingdom.[1]

As functions of the state in general, Ockam enumerates legislation, the maintenance of justice and the promotion of virtue; but the chief function is, as Marsiglio had insisted, the punishment of offenders.[2] This last is indeed the characteristic function; the others may, without derogating from the excellence of the state, be omitted, but the coercive authority must always be in the prince. On the supreme question as to the justification of universal secular empire, the arguments in favour of the idea are so strongly presented as almost to warrant a conclusion that they expressed Ockam's personal opinions.[3] But the Emperor is not conceived as unlimited in authority, even in temporals.[4] Like every other monarch, he is subject to the requirements that his government be just and be useful to the people. Ockam's detailed study of the limitations presents, in addition to the rules of divine law, substantially the same conceptions that came later to be embodied in the formula "the law of nature and of nations."[5] Thus, private property is secure against the monarch save so far as the general welfare necessitates its applica-

[1] *Dialogus*, III, i, 2, 5; Goldast, II, 794. Ockam speaks of "regnum vel ducatus," as Aquinas of "regnum vel provincia."

[2] Ad hoc videtur esse principalissime constitutus, ut corrigat et puniat delinquentes. — *Octo Quæstiones*, III, 6.

[3] This question is the topic of *Dialogus*, Pt. III, Treatise ii, Bk. 1, Goldast, II, 870.

[4] The rights (*iura*) of the Emperor in temporals is the subject of III, ii, 2.

[5] "Ius naturale et gentium."

tion to public purposes; and he is bound to conform to the laws common to all nations,[1] such, for example, as those touching war, embassies, the treatment of prisoners, postliminy, *etc.* As to the laws which he himself makes, neither the Emperor nor any other monarch is bound by them of necessity, though propriety requires that he respect them. Such is the construction to be put upon the phrase, *Imperator legibus solutus*. This dictum has reference only to legislation enacted by a particular human authority, and the supreme power of every legislator must be regarded as qualified by the *ius gentium* and the *ius naturale*.

8. *Marsiglio and Ockam on Sovereignty and Representation*

In this last doctrine of Ockam there is found his attitude toward the theory which was elaborately debated by both him and Marsiglio under the head of plenary power (*plenitudo potestatis*). This term is shown by the discussions to which it was subjected to have had practically the same meaning that has for the last three centuries been expressed by the word sovereignty.[2] Plenary power was first predicated of the Pope, and was interpreted by the papal protagonists (especially, as we have seen, by Augustinus Triumphus)[3] to include the absolutely unrestricted authority, both temporal and spiritual,

[1] Save when they infringe upon the general welfare (*utilitas communis*), III, ii, 2, 28. Goldast, II, 924.

[2] *Cf.* Gierke, *Political Theories of the Middle Ages* (translated by Maitland), p. 35, and notes.

[3] *Supra*, p. 218.

which must by the nature of things pertain to the representative of God. Against this extreme view Marsiglio and Ockam proceeded first, as was their custom, by discriminating the various senses in which the term is used.[1] Marsiglio enumerates eight and Ockam five different shades of meaning, and both deny to the Pope and to the church in any of its organs the jurisdiction that is implied in the far-reaching definitions of the term. Ockam, moreover, carries the concept over into the discussion of temporal rule, and questions whether the prince has in this field authority corresponding to the plenary power claimed for the Pope in spirituals. His conclusion is clearly in the negative. He lays it down, for example, following Aristotle, that ruling slaves is no mark of the best state, and in like manner the exercise of power that is equivalent to that over slaves is not to be recognized as pertaining to the ideal ruler.[2] Moreover, he so qualifies the conception of the purely legal sovereign[3] as to exhibit the real nature of his thought. His definition of plenary power, formulated for general use, shows this same characteristic. It is, he says, the power by virtue of which the ruler can do anything that is not expressly contrary to the law of God and of nature.[4] He thinks, thus, of sovereignty only as limited. Marsiglio also defines the absolute sense of the term only to set it quickly aside;

[1] *Defensor Pacis*, II, 22; *Dialogus*, I, i, 1, 1.

[2] *Octo Quæstiones*, III, 5.

[3] *Cf.* last section.

[4] ". . . ut omnia possit quae non sunt expresse contra legem Dei neque ius naturae."

and the attitude of these writers is the general attitude of the time.[1] Indeed, throughout all the centuries down to the eighteenth, limitation was presumed in all the thinking about an ultimate fount of authority in the state, and was lost sight of by certain theorists only through an irrational striving after mathematical exactness in a science which is not exact.

In addition to this impulse to the discussion and definition of sovereignty, Marsiglio's contribution to the history of political theory includes also the detection of a distinction between state and government. For this is the essence of his thought in marking off so clearly the "legislator" from the executive, or *pars principans*.[2] His "legislator" is not necessarily identical with the formulator and promulgator of ordinary laws. He conceives that the legislative authority in this latter sense may be vested in the prince or in some other organ of government; but behind such organ, and superior to it, always stands the people as a whole, in whose collective will consists the essence of law in the broadest sense, and in whose aggregate life is the essence of the state. In the democratic city-state the manifestation of this essential force is most direct and immediate, but in aristocratic government the force is no less determinative; for the consent of the majority[3] of the citizens, he

[1] *Cf.* Gierke, *loc. cit.* [2] *Supra*, p. 240.

[3] "Valentior pars." Whether this expression ever in Marsiglio's usage signifies anything different from mere numerical majority is doubtful. In many places there seems to be a suggestion of capacity rather than number in "valentior." *Cf.* especially *Defensor Pacis*, I, 12 and 13.

holds, is the absolute condition of the persistence of any state whatever. This is the fourteenth-century version of the dogma that all governments rest upon the consent of the governed.

In his discussion of political organization Marsiglio is too close to Aristotle to free himself entirely from the conception that the popular sovereign must either act directly in all governmental affairs or make a general delegation of its authority. But in discoursing of the church, he resorts to a plan which is substantially a system of representative government. The constitution which he sketches for the general council[1] is a remarkable project for the fourteenth century, and suggests that the history of the influences that worked in the development of parliamentary government must for accuracy explore a somewhat wider field than that of the English constitution. The idea of representation which is embodied in the dogma that the Emperor represented the Roman people or that the electoral princes of Germany represented the people of the whole world,[2] was commonplace for centuries. But this differs *toto cœlo* from the thought of Marsiglio's pregnant phrase suggesting that the world of Christian believers be so represented that each province or community have delegates according to the "number and quality" of its inhabitants. No explanatory comment is added to this proposition, and the succeeding paragraphs of the chapter reveal merely that Marsiglio's ideas were influenced largely by the history of the great coun-

[1] *Supra*, p. 241. [2] *Cf.* Ockam, *Octo Quæstiones*, VIII, 3.

cils of the early Christian church. But nothing in this history suggests proportionate representation of the various provinces and communities of the Empire. Marsiglio seems to have thrown out a wholly novel suggestion when he proposed an apportionment of membership on the basis of numbers. The associated basis of "quality of persons" has an obvious source in the social and ecclesiastical class distinctions that were so characteristic of the time; but for the basis of numbers the only probable source in actual institutions was the municipal organization of some of the cities with which as an Italian Marsiglio was familiar.

It was left for Ockam, with his accustomed thoroughness, to work out in detail the project of a representative general council.[1] Assuming the right of every people, every community and every corporation (*corpus*) to legislate under certain circumstances for itself, and citing St. Paul as authority for the conception that the church universal is a corporation, he points out that the legislative body could be constituted as follows: a primary assembly of all believers in each parish or other small community could choose delegates to an electoral assembly for the diocese or kingdom or other political division, and by these assemblies the delegates to the council could be chosen; and such a council would truly represent the church, even though there should be no Pope to summon or to preside over it.

These ideas of Marsiglio and Ockam on sovereignty and representation in the church are of the highest

[1] *Dialogus*, I, vi, 84.

significance in the history of political theories in its modern phases. For a hundred years they were the core of violent debate in the ecclesiastical field, and their application and influence in issues of purely political significance grew apace. The jurists of both the Civil and the Canon law wrought them into the fabric of their respective systems, and contributed greatly to give them a precise and practical form.[1] These doctrines, in fact, constitute the leading lines along which it is necessary to penetrate the tangle of theories which characterizes the age of the great pre-Reformation councils.

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[1] It is the chief thesis of Gierke that the Roman law of the corporation (*universitas*) was the main source of the characteristic dogmas of Marsiglio and Ockam. See his *Political Theories of the Middle Ages* (trans. by Maitland), pp. 37–67. This passage is a marvellous exhibition of accurate and exhaustive scholarship. Yet I think that Marsiglio is credited with a rather more complete and precise theory of representation than the text of the *Defensor Pacis* justifies.

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CHAPTER X

THE PASSING OF THE MIDDLE AGE

1. *Political and Ecclesiastical Tendencies*

The century and a half that followed the death of Ockam[1] witnessed the transformations which mark the advent of the modern era. Politically the changes appeared, as is commonly the case, rather in institutions than in speculation about them. Theorizing about politics was but sparingly indulged in, but the progress of events exhibited clearly enough the principles that were unconsciously in men's minds. In the first place the national, as distinct from the imperial idea, became increasingly potent. It was this that gave character to the Hundred Years' War between France and England and saved the former from dismemberment by the latter; it was this that drew together the Spanish kingdoms into a single monarchy; and it was this that widened beyond hope of repair the breach between the cisalpine and transalpine fractions of the old Empire, and inspired the vague early conceptions of German and of Italian unity. In the second place, within each of the regions in which the nationalizing tendency was most pronounced, this period witnessed first an exaggeration and then a great decline in the political power of the feudal aristocracy.

[1] The most probable date of his death is 1349.

The English Parliament and the French Estates-general played in the fourteenth century a large part in fixing the financial and military conditions under which the monarchs must conduct their wars; but before the end of the fifteenth century the great nobles who controlled these assemblies had been crushed, in England through the Wars of the Roses and the cold-blooded energy of Henry VII, in France through the Hundred Years' War and the subtile policy of Louis XI. And as the Spanish kingdoms assumed prominence in European affairs, the tendencies of the times received conspicuous illustration in the large power enjoyed by the nobles of Castile and especially of Aragon, and in the strenuous efforts of the monarchs, both before and after the union of the two kingdoms, to escape the restrictions which the ancient systems imposed upon the royal power. In Germany, finally, the realization of the aristocratic ideal was most complete and, for the period with which we are now concerned, was permanent. Royal power here became almost nominal, and the great feudal princes appropriated to themselves, at first jointly and then by degrees in severalty, all the substance of sovereignty.

A third element in the general trend of events was the increased political significance of the towns, manifesting the influence of commercial and industrial development. The normal antagonism between the towns and the territorial aristocracy produced now its perfect result. In England, in France and in Spain, the burghers, after suffering greatly in the

period of aristocratic predominance, became the mainstay of the crown in overthrowing the nobility. Thus in these three lands the burgher element assumed substantial importance in the monarchic national governments; while in Germany the towns became, in the decline of royal authority, practically independent, and in Italy they assumed wholly the character of the city-states of antiquity. There is evident in such events as the struggles between the towns of Flanders and Charles the Bold, and between the Swabian League and the South German princes, the existence of an aggressive political consciousness in parts of the population that had for centuries been devoid of significance, and to this extent the tendency was democratic; but it is not at all necessary to exaggerate the prevalence of the tendency by reference to the insurrection of Wat Tyler in England or the French Jacquerie. These latter movements expressed essentially mere local reactions against oppressive economic conditions caused chiefly by the plague.

While the various tendencies just noticed unquestionably produced some influence on political philosophy, it was to the course of ecclesiastical affairs that we must look for the most positive and direct impression upon systematic thinking. In 1378 the long French ascendency in the papal court at Avignon produced its perfect result in the election of an antipope.[1] The

[1] The cardinals first elected an Italian, Urban VI, at Rome, but a few months later declared his election invalid, on the ground that they had been put under duress by the Romans. Thereupon, at Fondi, they elected Clement VII, who betook himself to Avignon

schism thus begun was perpetuated by successive papal elections, and its results affected not only ecclesiastical, but also political, conditions throughout the Christian world. In the presence of two popes engaged in reciprocal excommunications and anathemas, and supported by various governments on grounds that were obviously of a purely political character, the unity of the church, and the necessarily monarchic character of its government, faded rapidly out of men's minds. Good men who shuddered at the scandal to the faith laboured earnestly to heal the breach, but in the presence of the countless obstacles that lay in their way if they should adhere to the theory of papal autocracy, resort was had with ever-increasing fervour to the idea of a general council as the true source of ultimate authority in the church. The actual assembling of such a body at Pisa in 1409 hardly fulfilled the high purposes of the conciliar theorists; for the immediate result was a third pope and all the complications of a threefold schism. But the Council of Constance, in 1414–1418, at last succeeded in installing a pope whom all the church recognized. This result was attended, however, by the institution of reforms in the government of the church, that in a large measure substituted conciliar for papal authority. The general council was made a permanent element in the constitution of the church, and a resolute purpose was manifested to convert autocracy into limited monarchy. But

and was recognized and supported by France. Castile, Aragon and Navarre recognized Clement; Germany and England, Urban.

against this purpose the Pope and his supporters made a strong and successful resistance. The contest lasted, in a variety of phases, through the period of the Council of Basel (1431–1443), and ended in the practical disappearance of the conciliar system. But though the Papacy nominally triumphed, its prestige and its real power were enormously diminished after the councils. Its victory was only achieved through means that brought into the clearest relief its weakness as a political institution.

The controversies of the conciliar period absorbed the attention of jurists and philosophers, and stimulated a radical overhauling of accepted canons of history and right. Not only the acute scholastic spirit of Marsiglio and Ockam, but also the free critical methods of the rising Italian Renaissance were discernible in the doctrines of the time. Thus, at the suggestion of Nicholas of Cues, and by the demonstration of Valla in 1440, the Donation of Constantine was definitively relegated to the domain of myth. Moreover, in the very organization and procedure of the councils there were presented in unmistakable form the same tendencies which appeared in the concerns of external politics. The grouping of the peoples of Europe received definite recognition in the method of voting by "nations," which was adopted at Constance;[1] the antithesis of aristocracy and monarchy was as clearly expressed in the deposition of popes at Pisa and Constance by assemblies of the pre-

[1] There were five "nations": the Italian, French, German, English and Spanish.

lates as it was in the deposition of Richard II of England by the Parliament; and finally, the rising political influence of the townsmen, as against the feudal aristocracy, finds its parallel in the prominence at Basel of the lesser clergy, as compared with the prelates, and in the aggressive policy of the former, which ultimately brought the council to a futile end.

2. *Wycliffe and Huss*

Prior to the complete realization of the conciliar idea, the movements in England and Bohemia that are associated, respectively, with the names of Wycliffe and Huss faithfully reflected the characteristic tendencies of the times. Both movements were national and anti-papal in spirit and more or less democratic in manifestation. Their doctrinal apparatus shows very clearly the influence of Marsiglio and Ockam. But Wycliffe to a great extent, and Huss almost exclusively, devoted themselves to purely theological and ecclesiastical questions. Where they verge on politics their teaching is that of the early church — the recognition of earthly power only to depreciate it. Incidentally, however, Wycliffe developed a theory of authority in general which is not without interest and significance in a history of political thought. This theory is embodied in his works on Lordship (*Dominium*), Divine and Civil.[1]

By lordship Wycliffe means the abstract relation

[1] The works of Wycliffe are in course of publication, with full critical apparatus, by the Wycliffe Society

of the being that is served to the being that serves.[1] Thus the term designates the relation of God to the universe, of the king to his subjects, and of the proprietor to his slaves or other property. But these various manifestations of the principle do not all stand on the same plane. The lordship of God is the highest and greatest of all. He may be called lord-in-chief (*capitalis dominus*),[2] and his authority is not, like that of other monarchs, distributed through various grades of vassals, but is exercised immediately upon everything that is subject to it. This is divine lordship. Of the lower species there are two classes, natural and civil. The *dominium naturale*, or *evangelicum*, is that which is shared under the law of the Evangel by all who are in the state of grace — the righteous, the *universitas predestinatorum*. *Dominium civile* is of human institution, was occasioned by sin, and is in all respects inferior to the other species. Rights, in the true sense, are possessed only by those who share in evangelical lordship — who have in truth all the goods of God. Civil wealth and power are but the shadows of the lordship which pertains in reality to the redeemed. All the familiar incidents of what is called property management — all transfers, bequests, *etc.* — characterize merely the administration of that of which the essential right is in God and, under his law, in his elect.

[1] His definition is: Habitudo naturae rationalis secundum quam denominatur suo praefici servienti. *De Dominio Divino*, Bk. I, c. 1.

[2] *De Dom. Div.* I, 5.

It is entirely characteristic of all Wycliffe's thought that property rights and political authority are blended indistinguishably in the conception of lordship. His point of view is feudal, and the relation of divine to civil lordship is repeatedly illustrated by that of feudal lord and vassal.[1] As to human government, he devotes some attention to the relative merits of monarchy and aristocracy. The latter he conceives to be the true form in the state of innocence under divine law,[2] but the former is required by the conditions of the state of sin. The kingly power, however, depends not really on human law, but on grace; neither hereditary succession nor election, therefore, gives true royal authority. An unbaptized heir, being in mortal sin, can have no lordship till the defect be removed. Every Christian king, knight or other civil lord is held more to his spiritual than to his carnal father — a doctrine which recalls that already used by the pro-papal party in building up the dogma of papal supremacy.[3] Similarly, in respect to slavery, he presents almost precisely the doctrine of St. Augustine: that it is a human institution resulting from sin, and that to God's elect the earthly condition of servitude is a matter of indifference, since in essence they are all equally free and noble. "Servitude," he says, "is of three kinds: as it denotes subjection to God, to man

[1] *E.g.*, *De Dom. Civ.* I, 18 *passim.*

[2] Wycliffe's aristocracy exhibits a blending in thought of Plato's "guardians," Aristotle's aristocracy of virtue, and the "judges" of the Israelites. *De Dom. Civ.* I, 27.

[3] *Supra*, p. 217.

or to sin. Of these the first is excellent, the second a matter of indifference, and the last the worst possible." [1]

Wycliffe's application of his theory to questions touching temporal property, in the ordinary sense, and the relation of the church thereto, was what brought him most distinctly under imputation of heresy. From the secondary and subordinate character of human lordship, he drew the conclusion that a grant of perpetual civil property right could be made neither by any individual man, nor by the whole human race, nor by God himself. A corollary of this — and the application which had immediate practical significance in consequence of the refusal of the English Parliament to continue payment of the tribute promised by King John to Pope Innocent III — was that ecclesiastical persons or corporations had no indefeasible right to temporalties, which might be taken away in case of misuse. Wycliffe derived from his principal thesis support also for the view of absolution and excommunication that had been strongly upheld by Marsiglio and Ockam. The function of the priest in these, as in all other human acts, was held to be conditioned by conformity to the law of Christ; so that the judgment in any case, no matter how strongly fortified by bulls or other documents, had real and essential validity only so far as confirmed by the will of God.

[1] Triplex est servitus, scilicet Dei, hominum et peccati; quorum prima est optima, media neutra et tercia pessima. — *De Dom. Civ.* I, 34.

The pardon of sin or exclusion from the church may be testified to by human acts, but really takes place without them;[1] just as the formalities and documents purporting to determine the title to civil lordship do not affect the actual lordship as determined in the forum of God. From these doctrines is drawn finally the very important deduction that tithes and other contributions of temporal property to the church cannot be exacted by excommunication.

In a general way Wycliffe's doctrine is one which is common to all the Christian ages, namely, of the supremacy of divine or natural over positive human law. His most characteristic peculiarity is the importance which he attaches to the analogy of feudal relationships. The suzerainty of God and his law is sustained and explained, not only by the principles of Platonic idealism, but also by those of the social system of Europe. Feudal overlordship had become by Wycliffe's time so dissociated from immediate and manifest connection with the concerns of daily life, that it afforded an obvious analogue for that divine suzerainty whose essence lay in the domain of spirituality and faith.

Huss added nothing to the doctrines of political import which he took freely from Wycliffe.[2] His work, so far as we are concerned with it, was to

[1] "Non est possibile hominem excommunicari nisi excommunicetur primo et principaliter a se ipso."

[2] *Cf.* his *Determinatio de Ablatione Temporalium a Clericis*, in Goldast, I, 232. Huss here defends at length the right of secular rulers to deprive ecclesiastics of property on the ground of abuse, and the argument is taken in places verbatim from Wycliffe.

carry forward by a generation the movement of reaction against the extremest pretensions of clerical omnipotence, and to strengthen again in Central Europe the dogmas which had been propounded by Marsiglio and Ockam, namely, that the temporal possessions of the church were no essential element of its constitution, that the papal monarchy was no divinely ordered institution, and that the whole body of the faithful, rather than any individual or group of individuals, was the real church.[1]

3. *Gerson and the Council of Constance*

The Council of Constance was in no small measure a result of the causes which worked in producing the doctrines of Wycliffe and Huss. But to the radicalism of these doctrines the council manifested the sternest opposition. Huss was burned at the stake, and Wycliffe suffered posthumous martyrdom. To the men who laboured so strenuously to heal the schism that was destroying the church, it was not through innovations in creed but through reform in organization and administration that the way to a restoration of peace and order appeared feasible. Conscious of the revolutionary tendency of their purpose to subject the Pope to the general council, they stood firmly opposed to any modification of the old order beyond what they regarded

[1] Huss maintained as fully as Wycliffe that the church consisted essentially in the whole body of the predestinated (*universitas predestinatorum*). See Gieseler, *op. cit.*, Vol. III, p. 423, note 18.

as absolutely indispensable. They were in a real sense reformers and not revolutionists.

The leading spirits in the whole conciliar movement were John Gerson, the learned and eloquent chancellor of the University of Paris, and his revered preceptor, the Cardinal Peter of Ailly. For years these men laboured strenuously to bring about an effective general council, and in the fruition of their efforts at Constance they were looked to by all parties for guidance in the tortuous way of successful reform. Gerson's writings,[1] both before and during the sessions of the council, presented a well-rounded theory of limited monarchy as the true form of ecclesiastical organization. This theory involves a systematic repudiation of the long-triumphant Petrine dogma, and it embodies many features of the doctrine of Marsiglio. But Gerson is less radical than his predecessor. He will hear nothing of the Marsiglian democracy. His church, governmentally considered, is the hierarchy, not the general body of believers. He is, in short, aristocratic in his conception of ecclesiastical politics.

The conservatism, and at the same time the revolutionary character, of the conciliar movement are particularly illustrated by the care with which "necessity" and the "general welfare" (*utilitas omnium*) are made the basis of the most far-reaching reforms. Resistance to a Pope, for example, or refusal to obey him, while conceivably at times a right and a duty

[1] The most important of those which are of interest to us are printed in Goldast, *Monarchia*, II, 1384 *et seq.*

of Christians, must spring from some pious necessity (*pia quaedam necessitas*) and from the pressure of overwhelming circumstances (*manifestis causis urgentibus*).[1] In fact, the most essential steps in the process of terminating the schism were frankly based on this confession of illegality. The frequent recurrence of this idea of necessity strongly suggests the theories of the Whig revolution in England,[2] and the parallel becomes very pronounced when it is considered that Gerson and the Whigs were both striving to justify the termination of autocracy without furnishing a basis for the exaltation of democracy. The absolute authority which was to be transferred from the Pope and the king to the council and the Parliament respectively on the plea of overruling necessity, had to be prevented at any sacrifice of consistency from passing on under a like plea to the general body of subjects.

Gerson's doctrine of supreme power in the church (*plenitudo potestatis ecclesiasticæ*) is skilfully framed so as to give substantial supremacy to the council while doing as little violence as possible to the traditional authority of the Pope. Formally the plenary power is in the Roman Pontiff; but behind this and supplementary to it is the plenary power of the church, as organized in and represented by the general council. To the latter belongs the function of caring for the unity of the church,[3] of assigning the exercise

[1] *De Auferibilitate Papæ*, 13.

[2] *Cf.* Burke, in his Appeal from the New to the Old Whigs.

[3] "Claves datae sunt non uni sed unitati."

of power to this or that person, and of regulating by law the manner in which the papal power shall be used.[1] The Pope becomes, in fact, an administrative agent of the church, with discretionary power in important matters only because the council is not permanently in session and cannot be readily summoned.[2] This substantial extinction of papal sovereignty is disguised, indeed, by Gerson through frequent recurrence to the familiar formulas of pontifical exaltation, and through the no less frequent suggestion that the assertion of conciliar supremacy is mainly to be justified by the scandals of the schism and the mortal peril of the church. Yet the trend of the system which is set forth is clearly manifest, and the consciousness that doctrines subversive of the ancient ecclesiastical order are in the air is unmistakable.

That these doctrines of limitation upon monarchy were applicable to the political as well as to the ecclesiastical order, was well understood at the time. The debate over the power and activity of the council was for half a century the central topic of interest in the intellectual circles of Western Europe, and political speculation, though quite overshadowed by the magnitude of the ecclesiastical issues, received a most significant impress from the controversies of the churchmen. Gerson manifests throughout his works the clearest consciousness that his fundamental principles are those of political as well as of ecclesiastical government. Retaining the

[1] *Tract. de Potestate Ecclesiastica*, 11.
[2] *Ibid.* 10.

familiar distinction between the universality of the law given by Christ to the church and the diversity of purely secular law according to place and time,[1] he finds, nevertheless, that the relation of the administrator to the law and the general adjustment of the governmental organization are determined on principles that are identical in church and state.

His general argument demands, of course, the most explicit denial to the Pope of that superiority to law which was ascribed to the Emperor. The dicta *quidquid principi placuit* and *princeps legibus solutus*, whatever their validity in secular law, have no application, he holds, in the church. To say that the Pope is *supra ius* is "smooth, deceitful and treacherous flattery."[2] So far as any authority is above the law of the church, it is the general council, in which is vested power to interpret, modify or repeal what has been enacted by popes or previous councils. The Aristotelian classification of governments furnishes the suggestion of that which should prevail in the church; namely, the mixed form, composed of royal, aristocratic and timocratic elements.[3] France, Gerson thinks, has carried out the principle of the mixed form so far as to embody the royal and aristocratic elements in the king and the *parlement*, but falls short of the complete blending that would be best. This is to be found historically in the organiza-

[1] *De Auferibilitate Papæ*, 10; *Tract. de Pot. Eccl.* 13.

[2] Blanda, fallax et subdola adulatio. — *Sermo factus xxii Julii*, 1415. Goldast, II, 1407.

[3] *Sermo factus xxii Julii.* Goldast, II, p. 1410. Gerson gives the name *timocratia* to the popular form which Aristotle calls polity.

tion of the Israelitish commonwealth under Moses, wherein Moses himself constituted the royal element, the seventy-two elders the aristocratic, and the lesser magistrates the timocratic or popular.[1]

The clean-cut and acute, but never intemperate, pleas of Gerson and his allies in behalf of limited government, the reign of law, and the subordination of strict law and tradition to the requirements of equity[2] and the general welfare, received the completest ratification in the decrees of the Council of Constance, and thus became merged in the intellectual consciousness of the time. In view of this fact, there is a justification for the suggestions put forth by a recent writer, that this council

> first exhibited the conflicts of pure politics on the grand scale; that in it the notions of constitutionalism gained the hall-mark of European acceptance; . . . that it set forth a system of politics which was consistent yet scarcely doctrinaire, which saved the rights of the crown while it secured the liberties of the people; . . . that it paved the way for the constitutional reformers of future generations.[3]

4. *Nicholas of Cues and the Council of Basel*

The Council of Basel, in which the system of ecclesiastical government ordained at Constance found its fullest realization and later its destruction, gave occasion for much more radical theories than those just considered. The reactionary attitude of the papal court toward the council called the left wing of

[1] *Tract. de Pot. Eccl.* 8.

[2] See especially his treatise *De Unitate Ecclesiastica*, Pars II.

[3] J. Neville Figgis, "Politics at the Council of Constance," in the *Transactions of the Royal Historical Society*, 1899, p. 103.

the reforming party to the front and stimulated the extension of the antimonarchic argument from the aristocratic ground at which Gerson had stopped, full into the territory of democracy. Nicholas of Cues (Nicolaus Cusanus), a German of wide learning, of scientific spirit in the modern sense, and of logical acumen equal to that of the best of the scholastics, furnished the council with a theory adapted to its needs in his treatise, *De Concordantia Catholica*.[1] This very noteworthy work presents a doctrine that is distinguished by originality and exceptional force, and is as clearly unique as was, a century earlier, that of Marsiglio, which it in some respects resembles. Two points in the doctrine demand our special attention in their bearing upon the transition of political theory from the mediæval to the modern type. The first point is the theory of harmony or unity (*concordantia*); the second, the theory of popular consent as the basis of government.

In the theory of harmony Cusanus lays down the substantial unity of all phenomena — material and spiritual — and the essentialness of all parts, even the least, to the nicely correlated scheme of the whole. God's universe is conceived as an organism in which every element has its vital part to play. So in human affairs each element of the general providential scheme consists of a congeries of lesser elements, working in harmony for the perfect end of the whole. The church and the Empire are the two great institutions in which human affairs are

[1] In his *Opera* (Basel, 1565), Tom. II, p. 692.

organized, and each of these embodies a series of parts whose relations to the whole are one and the same. Thus it is of the essence of the thought of Cusanus that the principles which determine the interrelationship of ecclesiastical organs are precisely the same as those which prevail in secular government. Having laid down the theory of the council as the central organ of church government, he consistently maintains that a council must hold the central place in political organization.[1] The parallel between the two appears to him, not as a matter of mere analogy or convenience, but as a fact rooted in the foundations of existence. By the emphasis placed by Cusanus on this thought, the close connection and reciprocal influence of ecclesiastical and political theory receives the most impressive illustration.[2]

Having in mind, then, this conscious association of the two species of governmental power, we may readily appreciate the significance of the doctrine which he presents as to the source of legislative and other authority in the general council. Proving historically, by an examination of the early church councils, that the formal pronouncements (*canones*) of those bodies received their force from the consent of those present, he proceeds to the broad doctrine

[1] *De Concord. Cath.* III, 12.

[2] In seeking to work out the parallel between the church and the Empire, Cusanus finds himself in great difficulties, owing to the disintegrated condition of the latter, which he is too sure an observer not to realize. "Mortalis morbus imperium Germanicum invasit: cui nisi subito salutari antidoto subveniatur, mors indubie sequetur, et quaeretur imperium in Germania et non invenietur ibi."—*De Concord. Cath.* III, 32.

that the acceptance or consent of those to whom it applies is the basis for the validity of every law.[1] The acceptance may be indicated by use or custom, and it is in this sense only that the decretals of the popes may be regarded as law. That general consent is the sole source of obligation is a principle of divine and natural right.[2] The demonstration of this truth by Cusanus has precisely the form that became commonplace in the eighteenth century. Since all men, he says, are by nature free, all government, whether in the form of written law or of a ruler's will, springs solely from the consent of the subjects. And since all men are by nature equally endowed with power, the superior position of any one can be due only to the choice and consent of the rest.[3] Thus the source of personal dominion as well as the source of law is to be found in the people.

This argumentation of Cusanus, destined to so famous a career in the history of political thought and action, bears on its face the impress of novelty. The general phrases on which it rests were familiar and had frequently appeared in discussions of natural rights ever since the days of the Roman imperial

[1] Vigor legis ex concordantia subjectionali eorum qui per eam ligantur subsistit. — *De Concord. Cath.* II, 12.

[2] Contra hanc conclusionem nulla prescriptio vel consuetudo valere potest, sicut nec contra jus divinum et naturale a quo ista conclusio dependet. — *Ibid.*

[3] *Ibid.* 14. Cum natura omnes sunt liberi, tunc omnis principatus, sive consistat in lege scripta sive viva apud principem . . . est a sola concordantia et consensu subjectivo. Nam si natura aeque potentes et aeque liberi homines sunt, vera et ordinata potestas unius . . . non nisi electione et consensu aliorum constitui potest, sicut etiam lex ex consensu constituitur.

jurists; but the application of the principles had been confined to questions of morality and of private law.[1] In carrying them over into politics proper and making them the basis of a theory of public law, Cusanus manifests the insight and boldness of a daring innovator. That he was entirely conscious of the significance of his doctrine is indicated by his remark at the opening of the chapter, that the considerations he is about to advance require a much fuller treatment than he is able under the circumstances to give them.[2]

On the basis of the doctrine of popular sovereignty he erects the more familiar theory that the personal ruler is in fact merely the chosen executor of the law. He is the symbol and representative of the body from which his authority is derived, and his function as guiding and directing representative is more perfect and precise in proportion as he is in immediate touch with his constituency. Thus the bishop (and the episcopal dignity is, like all other, elective and representative) more exactly symbolizes (*figurat*) the church than does the Pope. Cusanus will in nowise depreciate the importance and necessity of the executive function (*cura praesidentialis*); it is essential to the universal principle of harmony (*concordantia*); and executive and subjects together, organized through consent, constitute the rational corporation (*corpus*).

The principle that authority emanates from the

[1] See *supra*, p. 128.

[2] Annecto aliam considerationem quae licet diffusius desideraret explicari, brevitati studens . . . distincte perstringam eandem.

people seems irreconcilable with the apostolic dictum that all power is from God. But Cusanus finds the conflict only superficial. The power of God works in and through the people, and the manner of this working he elucidates by analogies based on the quaint conceptions of his time in respect to physical phenomena. It is a beautiful reflection, he concludes, how all powers, spiritual, temporal and physical, are latent in the people, while for the manifestation of the executive force in action the stimulating influence must come from above.[1]

When he seeks to formulate the practical organization through which the principles of popular sovereignty are to be applied in the secular state, Cusanus is less acute and original than in his fundamental theory. He gets little beyond the institutions of the Empire. The voice of the people in the choice of the monarch is the voice of the Imperial Electors, and in the making of law the council which expresses the popular consent is the assembly of the kings, dukes, landgraves, *etc.*, who collectively represent the whole Empire.[2] Insistent as he is on the principle that the source of power is the people, his idea of representation is that ancient one in which the magnates, by virtue of their eminence, stand for the lesser men. Cusanus makes no such suggestion as that found in Marsiglio and Ockam, that representatives shall be chosen by the people in specific constituencies and according to numbers. Yet these would seem to be the most obvious consequences of that doctrine on

[1] *De Concord. Cath.* II, 19. [2] *Ibid.* III, 4, 25.

which he lays such stress, that the social organism involves the correlated activity of all its elements, from the greatest to the least.[1]

The speculations of Cusanus, even more than the theories of Gerson and his associates, express a tendency in thought rather than in practice. The time was not ripe for institutions that would demand the complete and aggressive development of the doctrine of popular sovereignty for their justification. At Basel the reforming element in the council fought a long and violent, but losing, fight against the monarchic policy of the papal court. Gradually the influences which centred at Rome proved themselves the more powerful. The strong men of the conciliar party took alarm at the disintegrating and schismatic tendencies of the majority at Basel. Nicholas of Cues himself passed over to the papal side and, as a cardinal, became a protagonist of the Roman cause in Germany. With the dissolution of the council in 1443 the ancient constitution of the church was restored, but the doctrines that the conciliar movement had called into prominence remained a significant element in the philosophy of the time.

5. *The Jurists and the Theory of the Corporation*

It was in the consummation of the conciliar movement in the fifteenth century that legal doctrine had

[1] An interesting example of the ramblings of his curious and eager mind is his ingenious scheme for securing secrecy in the voting for Emperor and in the enactment of measures of taxation. He is impressed with the importance of preserving freedom of opinion (*libertas iudicii*). III, 36, 37.

its greatest influence in giving form and precision to political ideas. That the power of the Emperor was delegated originally by the people was a concept that necessarily directed the thought of such minds as those of Marsiglio and Cusanus to speculations on the nature of "the people" as a general idea. In like manner the collective entities known as church and council demanded definition and analysis. The corporation (*universitas, corpus*) was a familiar and greatly exploited concept in the Roman law, and the principles on which it was expounded were freely drawn upon to explain the character and operation of political and ecclesiastical organizations. As the church and the council assumed the leading place in the controversial thought of the times, it was to the form and activity of these aggregates that the juristic doctrines were most fully applied.

As has already appeared, the whole movement of the conciliar party in the church had been based upon the idea of extraordinary conditions and extraordinary remedies. An imperative and overruling necessity was asserted as the conclusive reason for resort to a general council, even regardless of the Pope's consent. The juristic doctrine of the validity of acts based on necessity played a part in this contention.[1] Much more distinct was the influence of legal ideas in the conception of the church as a corporation (*universitas fidelium*) consisting of all believers and endowed with ultimate and residuary powers. This was the thesis of the radicals who

[1] Gierke, *op. cit.* p. 51.

followed Marsiglio and the extremest speculations of Ockam. But most explicit was the application of corporation law to the organization and action of the general council. This body was conceived by the school of Gerson to be in itself the corporate representative of the church. In it the church had form and the power of action.[1] There was no need, on this theory, for particular examination of the ecclesiastical body as a whole, but the organization, powers and procedure of the representative assembly required the most exhaustive consideration. Thus the doctors of law applied the whole paraphernalia of juristic argumentation — precedent, authority and the most refined rules of interpretation — to the task of solving all the problems of conciliar action by the principles embodied in Justinian's Digest and the Corpus Iuris Canonici. The relation of the Pope to the council was assimilated to that of the presiding officer (*rector*) of the corporation (*universitas*). The mode of summons was derived from that prescribed in the Digest, and from the same source was drawn the vital conclusion that if the Pope refused or was unable to issue the summons, the council could assemble spontaneously.[2] Likewise were determined the questions of quorum and of majority. Whether two-

[1] Videtur quod ecclesia, ut sparsim considerata, non habet illam potestatem [ecclesiasticam] nisi in quodam materiali seu potentiali [*sc.* sensu ?], sed congregatio sua et unitio, quae sit in concilio generali, dat ei formam, sicut in aliis communitatibus exemplum dari potest. — Gerson, *Tract. de Pot. Eccles.* 4.

[2] *Cf.* Antonius de Rosellis, *Monarchia*, II, 23, 24 (in Goldast, I, 252 *et seq.*).

thirds of those summoned should be necessary to a quorum, as was prescribed in case of the *universitas*, was answered affirmatively or negatively according to the predilections of the various debaters; but the grounds for either answer were strictly legal. The same was the case in the discussion as to the relations of minority and majority, and in answering the question whether unanimity was essential to valid action.

The necessary tendency of this manner of thought was to give a high degree of precision to the conception of collective unity in bodies of men. From the clearly formulated notion of such smaller aggregates as synods and councils it was an easy step to a working concept of the larger aggregates like the church and the Empire. Marsiglio and Ockam and Cusanus took the step and presented fairly well defined theories of great multitudes of individuals so organized as to express a unity without reference to that subordination to a single man (*ordinatio ad unum*) which was the common thought of the earlier Middle Age. The legal theory of the corporation combined with the Hellenic idea of the city-state to draw men's thoughts away from the one and to the many. Not the head of the church, but the church, became the centre of theory. The idea of representation which became so significant during the conciliar era made quite easy to grasp the distinction between the administrator and the source of power. The application of this distinction to the demand for popular sovereignty in political life was not fully made till well into the

sixteenth century; but the ground for the application was laid in the conciliar controversy in the fifteenth. The Roman law of corporations played only a slightly lesser part in leading up to the theory of the revolution time than the Roman law of contract played in the revolutionary theory itself.

6. *Summary*

The fifteenth century was the last in which the general lines of political philosophy were essentially mediæval. It was the last in which the functions and relations of Papacy and Empire were even nominally the central point of theory. The whole trend of thought was toward limitation and qualification in that conception of plenary authority in the monarch which had been prevalent in the preceding centuries. The idea of unity through organization and adjustment in the elements of the body supplanted that of unity through the oneness of the head. But this notion of the corporate group was not applied at this time to aggregations of individuals into nations; it received its character chiefly from the working of the estates in the various political divisions, the synods and councils in the church, and, where it approached most nearly to the modern conception of an organized people, from the free municipal states of Germany and Italy and the half autonomous communes of France. The general prosperity and power of these organizations afforded an impressive illustration of collective efficiency and representative administration.

In addition to the development of the conciliar idea and its corollaries, which was the chief characteristic of the fifteenth century, the philosophy of the period in its general aspects exhibited a progressive transformation of mediæval concepts along the line which led to the modern era. The effort of Wycliffe and his followers to incorporate the basal principle of feudalism in political theory by a systematic identification of ownership and sovereignty, was rendered unavailing by the unanimous rejection of the idea by the leading thinkers of the time.[1] *Dominium* (ownership) and *iurisdictio* (jurisdiction) were carefully distinguished, and the sanctity of private property as against the wielder of political authority was generally maintained, especially by the jurists. The limitation of the supreme power was not conceived, however, as due to any substantial and inherent right of the individual, but as embodied in the *ius naturale*, which continued to be regarded as absolutely conditioning the exercise of every kind of human authority and the enactment of all positive law.[2] Natural right was in fact the starting-point of all theory, and was as conscientiously employed by Cusanus in his exposition of popular and representa-

[1] *Cf.* Gerson, *De Pot. Eccl.* 13; Almain, *Expositio de Sup. Pot. Eccl. et Laica*, II, 1 (in Goldast, I, 588 *et seq.*).

[2] See Antonius de Rosellis, IV, 8, for a characteristic discussion of the question as to the power of Pope or Emperor to deprive individuals of their property. The conclusion is that deprivation can be effected only *cum causa legitima*. *Cf.* in general the preceding chapter, on the question: "Pontifex vel Imperator an contra iura naturalia possunt dispensare?"

tive government[1] as by Rosellinus in his exposition of monarchy.

It was from the assumption of natural rights as the basis of theory that depended the whole doctrine of general welfare (*bonum commune; utilitas omnium*) in church and state which was the mainspring of the conciliar movement. For from the time of Aquinas it had been accepted doctrine that utility was a first principle of the *ius naturale*, and that the interest of the whole took precedence over the interest of any part.[2] This principle and the use made of it in the fifteenth century pointed straight to the theory of the revolution time. For it established the tendency to regard ecclesiastical and political institutions, not as unchangeable embodiments of the divine will, but as instruments of human advantage, subject to modifications dictated by reason and experience.

The conciliar period witnessed also some considerable development of the notion that political and social institutions originated historically in the deliberate and rationally planned action of men. Cusanus, as has appeared, laid great stress on the consensual and contractual foundation of authority. But in addition to this we have the conception of an historical condition preceding the manifestation of this consent — a condition which later assumed great definiteness of character under the name, the state of nature. This idea in its fifteenth-century form

[1] *De Concord. Cath.* II, 14. Omnis constitutio radicatur in iure naturali, et si ei contradicit, constitutio valida esse nequit.

[2] *Cf. supra*, Chap. VIII, sec. 2; and see Gerson, *De Statibus Ecclesiasticis*, I.

received the most perfect literary expression in the short work of Æneas Sylvius on *The Rise and Power of the Roman Empire*.[1] Here the Biblical account of paradise is blended with the fancies of Plato and Polybius. After the expulsion of the first parents from Eden, men, it is narrated, lived in the woods like beasts, till reason taught them to come together in communities, and for their common welfare to build cities and develop the arts of civilized life. Justice and equity guided all actions, and government was by the most virtuous. Kingly government by force became necessary only when injustice and oppression gained vogue, and the Roman Empire was ultimately established to maintain universal peace. The treatise is in its purpose a panegyric of the Empire; its interest for us lies in the presentation of one phase in the evolution of a concept which, combined with that of the law of nature, for a time dominated all political philosophy.

In general the closing century of the Middle Age embodied in its philosophy ideas as to sovereignty, the popular basis of government, natural law and rights, and the social contract which, under the impulse of changed conditions in objective life, were to characterize the modern age. But those who devoted themselves to systematic thought remained still too much under the influence of the old ideals of Papacy and Empire to free themselves in either the method or the content of their philosophy from the

[1] *Tractatus de Ortu et Autoritate Imperii Romani*, in Goldast, II, 1558.

standards of the preceding ages. The signal for a change in the whole spirit of political theory was sounded just after the end of the fifteenth century by the genius of Machiavelli.

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CHAPTER XI

MACHIAVELLI

1. *His Life and Times*

In no system of political philosophy is the influence of environment more manifest than in that of Machiavelli. The brilliant Florentine was in the fullest sense the child of his times. Born in 1469, he entered public life twenty-nine years later, and died in 1527. The period of his maturity thus coincided with the first quarter of the sixteenth century. What, then, were the political and intellectual conditions and tendencies of this period that would be likely to impress themselves upon a mind of so fine a texture as that of Machiavelli?

In the first place, at the opening of the sixteenth century the movement for limited government in church and state that attained such considerable headway in the conciliar period had entirely disappeared. A monarchic reaction had swept away almost all vestiges of the aristocratic régime. In the church the popes had successfully evaded the requirement of periodical councils that had been decreed at Constance, and though the Lateran Council of 1511–1517 was called together, after long delay, in response to the demands of the discontented, it became merely an instrument for materially strengthening

the position of the Roman See.[1] The great secular states of Europe exhibited the full establishment of absolute monarchy. Henry VII in England, Louis XI, Charles VIII and Louis XII in France, and Ferdinand in Spain had relegated the feudal assemblies of their respective dominions to a position of obscurity and impotence. Even Maximilian of Germany endeavoured in his feeble way to impress himself upon the administration of his disjointed realm. The era was that of the strong man, in both secular and ecclesiastical politics, and Machiavelli's writings give copious evidence that he realized this fact.

But he was conscious also of the fact that the tendency of the times was toward the expression of nationality as well as of monarchy in political organization. The distinctions between English, French, Germans, Italians and Spanish had now become a commonplace of political observation, and had entered extensively into the policy of statesmen. As against this fact the ancient notion of an empire coextensive with Christian Europe lost all its significance. Not even the peril of a Mohammedan conquest and the exhortations to a crusade against the Turk could reawaken the notion that the Emperor was the secular head of Christendom. The national monarchy was the political type which alone inspired interest and respect. Of all the groups of provinces

[1] Through this council Leo X secured a concordat with Francis I which abolished the Pragmatic Sanction of 1438, and greatly diminished the privileges of the French prelates as against the Papacy. On the little interest in this council felt by Europe in general, see Creighton, *History of the Papacy*, IV, 234.

and cities that were tending toward consolidation, Italy had made the least progress. For about three hundred years the Italian peninsula had been the abode of numerous city-states whose history had been singularly prolific in analogies with that of the Hellenic world. By the beginning of the sixteenth century a process of consolidation and of internal transformation had resulted in the division of practically the whole peninsula among five states: the Kingdom of Naples, the territory of the Roman Church, the Duchy of Milan, and the Republics of Venice and Florence. Further consolidation was an obvious possibility; and the unification of the whole country under a national monarch, on the model of France or Spain, was an ideal that particularly inspired Machiavelli. In the way of realizing this, however, stood not only the reciprocal jealousies of the existing secular states and the fact that there was no one prince whose moral influence and material resources assured him such recognition of leadership in Italy as Ferdinand, for example, had acquired in Spain, but also the peculiar position and policy of the Papacy.

Largely as a result of the removal to Avignon and the disorganization of the schism, the region in central Italy immediately subject to the Roman See had fallen into anarchy. Upon the resumption of their abode at Rome the popes were practically without any control over the petty lords who had established their sway outside of the city. These conditions made it natural that progress toward further consolidation of Italy should proceed primarily through the

incorporation by the stronger states of the disorderly little territories whose nominal superior was the Pope. But to the steps in this direction taken by Naples and Venice the wielders of the papal power, when once the danger of the conciliar movement was past, opposed the most vehement resistance. From the time of Nicholas V (1447–1453) the policy of maintaining and enhancing the secular dignity and power of the Papacy was pushed by the aid of every resource which the curia could command. This policy, in one or another of its phases, is the key to the career of Sixtus IV and Alexander VI (Borgia), whose methods gave such scandal to Christendom, and it attained its final success under Julius II (1503–1513), whose energetic procedure in diplomacy and on the battlefield confirmed for three hundred and fifty years the hold of the Papacy on the government of central Italy. It was claimed by the popes, and there was much reason in the claim, that an independent position politically was the only security against the recurrence of such a condition of subservience to some temporal ruler as characterized the "Babylonish captivity" at Avignon; but the methods by which independence was realized and maintained afforded only too good grounds for the cynical judgment of Machiavelli and others that the Papacy had become primarily a secular institution, all the more to be feared because of the traditions of spirituality which afforded so convenient a mask for its designs.

In maintaining the integrity of the States of the

Church the popes contributed largely if not decisively to prevent the consolidation of Italy. But just as Machiavelli attained manhood, in 1494, the invasion of the peninsula by Charles VIII of France inaugurated that practice which turned Italy into the battlefield of the great monarchies. In the conflict of France and Spain and Germany the little Italian states had scant hope of preserving their independence by material force; but, like other weak powers under similar circumstances, they developed boundless resources of craft and diplomacy. Italian politics was the field of a most complex activity, and Machiavelli, who during fourteen years (1498–1512) held an important office in the Florentine administration, was in the midst of it. Practical experience thus combined with his philosophical temperament to give character to his speculations. The missions on which he was sent by his government gave him personal knowledge and experience not only of Italian men and affairs, but also of the greater nations of Europe.[1] His extensive and acute observation of government in its actual working left a most vivid impress on his thought and writings.

But with all the influence of contemporary political conditions, Machiavelli's philosophy was to an even greater extent the product of that admiration for pagan antiquity which was the hall-mark of the Renaissance. It was in his time that this culture-movement was producing in Italy its most perfect results. Art and literature had thrown off entirely

[1] He visited France and Germany.

the forms of mediævalism and looked for all their inspiration to the models of the ancient world. Philosophy and science were following in the same path; and the paganizing of morals and even of religion was only too clearly manifest in the life of the times. The dominant intellectual note of the age was freedom — freedom from the limitations and restraints which had been imposed upon men's thought and action by the methods and dogmas of scholasticism, and freedom to revel in every species of activity which the untrammelled spirit of the ancients had suggested. Florence was the acknowledged centre of Italian culture during the Renaissance, and Machiavelli was to the core of his being a Florentine. His intellectual training and equipment corresponded to the characteristics of his environment. The literature of antiquity, particularly the historians, was the staple of his diet, and in it he satisfied all the cravings of his nature. With the best writers of ancient Rome he was thoroughly familiar, and his acquaintance with those of Greece was fairly extensive, though there is no conclusive evidence that he understood their language.[1] It was under the stimulus of the spirit embodied in this literature that his naturally acute intelligence attacked the problems of politics and propounded solutions which, in both method and results, were as distinct from those of the preceding twelve centuries as if those centuries had never existed.

[1] On this point see Villari, *Niccolò Machiavelli*, translation, II, 11 *et seq.* (London, Kegan Paul, 1878).

2. *Method of his Philosophy and his Point of View*

The form and method of Machiavelli's philosophy had no prototype later than Aristotle — and the Aristotle of Hellas, not of Christian Europe. All the paraphernalia of the scholastics and of the jurists were simply ignored in his speculation. A comparison of the chapter heads of *The Prince* with those, for example, of the *Monarchia* of Rosellinus, who wrote only fifty years earlier, would hardly suggest that the two writers lived in the same world. The dogma of the two powers, the relations of Pope and Emperor, the conflict of spiritual and secular jurisdiction, the doctrine of *imperium continuum*, the Donation of Constantine and all the rest of the long familiar captions receive scarcely an allusion from Machiavelli. To the opinions of the church fathers and the mediæval doctors he makes no reference, and he never cites a text of the Canon or of the Civil law. His work was as completely dissevered from the long accepted system of political theory as the contemporary work of Columbus was from the long accepted system of geography.

The true method in the science of politics was, in Machiavelli's opinion, the historical method. Men had been, he believed, in all ages and places the same as at present, had been influenced by the same motives, and had been called upon to solve the same problems with the same means. A study of the past, therefore, would throw the fullest light on the needs of the present and would even, he thought, make prediction

of the future an easy matter.[1] He felicitated himself on being the first to perceive the true relation of history to politics, and on entering upon a new and untried path in political speculation. But the past which Machiavelli studied in his own works, and from which he supposed himself to be drawing his conclusions, was almost exclusively the past of classical antiquity. It was Greece and particularly Rome that furnished him with political truth. This manner of applying the historical method corrected, of course, and most usefully, that of the scholastic philosophy, which tended to teach that a deep gulf divided Christians from pagans, and that the experience of the latter, as a source of lessons for mankind, was practically worthless, owing to their lack of participation in the divine revelation. Yet Machiavelli, in restoring the history of the Greeks and Romans to its proper place in the edification of the human race, himself erred on the other side in leaving almost entirely out of account the history of the peoples in whose development Christianity played so large a part. The work which was avowedly an application of his new method, the *Discourses on the First Decade of Titus Livius*,[2] dealt with the Romans almost ex-

[1] *Discourses on Livy*, I, Introduction. Si cognosce facilmente come in tutte le città e in tutti i popoli sono quelli medesimi desideri e quelli medesimi umori, e come vi furono sempre; in modo che egli è facil cosa . . . prevedere in ogni Repubblica le future [cose]. — I, 39.

[2] *Discorsi sopra la Prima Deca di T. Livio.* In Works (Milano, 1804), Vols. II and III. Translated in Detmold, *The Historical, Political and Diplomatic Writings of Niccolo Machiavelli*, Boston, Osgood & Co., 1882.

clusively; and in *The Prince* Machiavelli's interest was clearly determined by contemporary conditions. The comparative method, which is essential to fruitfulness in the historical, was employed only to a slight extent and mostly in a rudimentary form.[1]

In fact, Machiavelli's method was historical rather in appearance than in reality. The actual source of his speculations was the interest he felt in the men and conditions of his own time. In the history of the ancients he found parallels that appealed strongly to him by their relation to existing conditions, and he seized upon them as revelations of essential truth. Of the circumstances of his own time he was a most accurate observer and a most acute analyst. This determined the method which he really depended upon. His conclusions were reached empirically, and were then reënforced by appeals to history. He used Livy, in the *Discourses*, rather for the purpose of sustaining, than for the purpose of discovering, principles. The *haec fabula docet* often adorned a tale that from the standpoint of serious history was absurd; yet Machiavelli's teaching, like Æsop's, was generally sound even when the story was weakest.

These characteristics of method are closely related to the point of view from which he regards politics. His philosophy is a study of the art of government, rather than a theory of the state. Machiavelli's field is *Politik*, not *Staatslehre*. He is interested in the establishment and operation of the machinery of gov-

[1] For an admirable use of the comparative method in answering a single definite question, see *Discourses*, I, 5.

ernment — in the forces through which governmental power is generated and applied. He views things from the standpoint of the governing, not of the governed class.[1] The spirit and motives of the latter are treated merely as incidental to the activity of the former. This is notoriously true of *The Prince*, which has given so bad a reputation to its author; but it is also true, in a hardly less degree, of the *Discourses*. If the former work analyzes the political system of the strong monarch, the latter analyzes that of the strong republic. In one, the main theme is the successful creation of a principality by an individual; in the other it is the creation of an empire by a free city. But in both the centre of his thought is the methods of those who wield the power of the state, rather than the fundamental relationships in which the essence of the state consists.

It follows, therefore, that while the affinity between Machiavelli and Aristotle is, from the point of view of method, very marked, in substance the Italian covers a much narrower field than that covered by the Greek. Aristotle does indeed devote much attention to the workings of government, to the practical questions of policy and administration; but he subordinates this phase of his work to the investigation of the broader aspects of organized social and political life. He has a theory of the state in the wide sense, and he sets forth this

[1] *Cf.* Villari: "Lo scopo finale delle sue ricerche e della sua scienza è pur sempre il dar precetti sulla condotta politica che debbono tenere gli uomini di stato." — *Op. cit.* (Firenze, 1881), II, 320. The English version of Villari includes only the first of the three Italian volumes.

theory at length. Machiavelli, while conscious of a broad philosophical basis for his views, gives only perfunctory attention to this, and hastens to take up the questions of immediate practical concern. Here his doctrine as well as his method approaches very nearly at many points to that of Aristotle. He is far less systematic; he makes scarcely any attempt at a logical presentation of the science or art of government; but the principles of practical policy for given conditions are substantially identical in the minds of the two philosophers. Running all through, however, may be discerned the influence of the distinction that, while the ideal of Aristotle, pretty consistently adhered to, was a state in which immobility and philosophic calm constituted the supreme end to be kept in view, the ideal of Machiavelli was a state whose end was expansion and the attainment of widespread dominion. The Italian recognized the abstract excellence of the Greek's ideal, but regarded it as too far removed from attainability to be worthy of serious consideration. Doubtless, he says, a perfectly balanced state, free from internal party conflicts, would be the true political existence. "But all human affairs are in motion and it is impossible to stand still; they must progress or decline; and where reason does not lead, necessity often drives." Hence a state organized with a view to mere existence without expansion is likely to be forced into the latter policy, and thus to be brought the more quickly to ruin.[1]

[1] Senza dubbio credo che potendosi tenere la cosa bilanciata in questo modo, che e' sarebbe il vero vivere politico e la vera quieta

It is this ideal of successful expansion that accounts for Machiavelli's generally low estimate of the Greek states, and his particular interest in Rome. To him Athens and Sparta seemed to lack the chief elements of political wisdom. Measured by his standard, they were failures. Rome, on the other hand, achieved empire, and was therefore a success. If Aristotle had witnessed the career of Rome, he might have been inspired in his philosophy by an ideal analogous to that of Machiavelli. The Greek had a sufficient appreciation of power — of the capacity to cope with circumstances and with men; and when he treated of the strong man in his philosophy, his conclusions were very similar to those of the Italian.[1] But Aristotle lived after the age of the Hellenic despots, and when little of them survived save a name of great odium. Machiavelli, on the other hand, lived when the Italian despot and the absolute monarch were in the full tide of their success, and when much of what men call prosperity was flourishing under their sway. His environment, therefore, as well as his temperament, operated to prevent any such depreciation of the tyrant's art as was involved in the system of Aristotle.

d' una città. Ma sendo tutte le cose degli uomini in moto, e non potendo stare salde, conviene che le saglino o che le scendino; e a molte cose che la ragione non t' induce, t' induce la necessità; talmente che, avendo ordinata una Repubblica atta a mantenersi non ampliando, e la necessità la conducesse ad ampliare, si verrebbe a torre via i fondamenti suoi ed a farla rovinare piu presto. — *Discorsi*, I, 6.

[1] *Supra*, p. 91 *et seq.*

3. *His Attitude toward Morality and Religion*

Not less important, scientifically, than his adoption of the historical method, and far more influential in establishing the reputation of Machiavelli, was his attitude toward morality and religion. It is this by which Machiavelli is best known, and it is this that contributes most to make him the expression of a definite break with the Middle Ages. Mediæval political theory did take some account of history, and the jurists in particular supported their *a priori* doctrines by more or less reference to the past. But in no philosopher of either ancient or mediæval times were the dictates of religion and morality so frankly relegated to a subordinate, and even insignificant, position in relation to the theory and practice of politics. That law of nature in which both ancient and mediæval philosophy had placed the source and limits of political science received from Machiavelli scarcely the recognition of a passing allusion; and the law of God, so far as it was manifested to man through direct revelation, was considered to be *ipso facto* removed from the field of his speculation.[1]

This wholly unprecedented position in political theory is presented in several different aspects in Machiavelli's thought. In the first place, it is necessary to recognize in his philosophy the first formal

[1] Thus in *The Prince*, chap. 6, Moses, whom Machiavelli seemed disposed to regard as one of the strong men of history, is dropped out of the discussion because he merely executed the policy dictated by God. The reason that would have made Moses the chief theme of discussion in the philosophy of another, excludes him from consideration in that of Machiavelli.

and conscious separation of politics as a science from the science of ethics. We have seen that this separation was practically involved in the work of Aristotle,[1] though it was rather an incident than an essential in his system. He never flatly proclaimed the independence of political from moral doctrine, but systematically maintained that the latter conditioned the former. Machiavelli, on the other hand, as systematically sought to isolate the phenomena of politics and to study them wholly without reference to the scientific priority of the facts of a moral existence. He did not at all deny the excellence of the moral virtues, but he refused to consider them as essential to, or conditions of, the political virtues. Machiavelli's political man is as entirely dissociated from all standards of conduct save success in the establishment and extension of governmental power as is the "economic man" of the orthodox school from all save success in the creation of wealth.

The employment of violence, cruelty, bad faith and all the other vices is discussed, in both *The Prince* and *The Discourses*, with only the most perfunctory expressions of moral disapproval,[2] and the employment of virtue and religion with as little evidence of moral appreciation. A scientific indifference so thoroughgoing as that of Machiavelli could hardly have failed to subject him to the reproach of sympathy with evil. He lays it down, for example, that while it is most praiseworthy for a prince to be good,

[1] *Supra*, p. 51 *et seq.*

[2] *Cf.* the comparison of cruelty "badly used" with cruelty "well used," "se del male è lecito dire bene." — *The Prince*, c. 8.

nevertheless one who wishes to maintain his authority must be ready to lay aside his goodness at any moment, and in general to employ it or not according to circumstances. Moreover, since no man can be expected to possess all the virtues, the discreet ruler will particularly avoid the infamy of those vices which endanger the state, and will thus be relieved of concern about those which are necessary to preserve it.[1] And again, in perhaps the most famous passage in his works, he refers to the common impression that the keeping of faith is praiseworthy, and then proceeds to demonstrate that, for the sake of maintaining political power, deceit and hypocrisy are indispensable.[2] "The prince must appear all sincerity, all uprightness, all humanity, all religion;" but he must have his mind so disciplined that, when it is necessary to save the state, he can act regardless of these. "Let the prince, then, look to the maintenance of the state; the means will always be deemed honourable and will receive general approbation." And when Machiavelli is treating of republics, his conclusions are the same: "I believe that when there is fear for the life of the state, both monarchs and republics, to preserve it, will break faith and display ingratitude." [3]

Moral judgments, thus, are wholly subordinate, in Machiavelli's philosophy, to the exigencies of political existence and welfare. He is not immoral, but unmoral in his politics. And the same attitude appears in relation to religion. He is not irreligious, but

[1] *The Prince*, c. 15. [2] *Ibid.* c. 18. [3] *Discourses*, Bk. I, c. 59.

unreligious. So far as religious practices involve the operation of forces above the influence of human reason, they are entirely out of his sphere; but so far as religion is operative in determining relations to the state and the trend of political development, it is subjected to the same cold-blooded analysis as appears in his treatment of morality. Religious sentiment is viewed as an important instrument of state policy, and as such it must be taken account of by statesmen always. Not at all, however, because of any profound truth to which the sentiment corresponds, but because the decline of respect for religion is the surest sign of approaching ruin for the state, and because wise statesmen are able, through appeal to this sentiment, to achieve reforms which otherwise would be beyond their power.[1]

Always, thus, Machiavelli has in mind the necessity of the existence of the state as the first principle of his philosophy. The whole effect of this point of view is summed up in the dictates of unscrupulous patriotism: "Where the safety of one's country is at stake there must be no consideration of what is just or unjust, merciful or cruel, glorious or shameful; on the contrary, everything must be disregarded save that course which will save her life and maintain her independence." [2]

[1] Sono molti beni, conosciuti da uno prudente, i quali non hanno in sè ragioni evidenti da poterli persuadere ad altri. Però gli uomini savi ricorrono a Dio. Così fece Licurgo, così Solone. — *Discorsi*, I, 11.

[2] Dove si delibera al tutto della salute della patria, non vi debbe cadere alcuna considerazione nè di giusto nè d' ingiusto, nè de pietoso nè di crudele, nè di laudabile nè d' ignominioso; anzi, posposto ogni

A second influence which was obviously at work in determining Machiavelli's treatment of the relation of politics to morality and religion was his admiration for power and efficiency in man. This feeling was temperamental and largely unconscious. The philosopher could not avoid a sense of pleasure in any manifestation of the ability to reach a desired end with clear-cut and indisputable success. He had in him the stuff that the hero-worshipper is made of. The strong man and his art constituted a theme to which Machiavelli's genius inevitably returned. His intimate familiarity with the workings of government in the weak Florentine republic, where divided counsels, temporizing and vacillation were so conspicuous, strongly confirmed the natural disposition to minute analysis of the elements which combined to make the policy of a state fixed, definite and coherent. Hence his rather unfortunate favourable judgment upon Cæsar Borgia,[1] which involves approval, not of either the end or the means of that tyrant's policy, but merely of the relation between end and means. And hence, too, the reproach visited upon the Baglioni for not slaying Pope Julius II when the opportunity was given;[2] without passing any judgment upon the morality of the policy which the tyrant should have pursued, Machiavelli merely points out the utter inconsistency of an ill-timed scruple with the policy in question. And the same characteristic of the

altro rispetto, seguire al tutto quel partito che le salvi la vita e mantenghile la libertà. — *Discorsi*, III, 41.

[1] *The Prince*, c. 7.

[2] *Discourses*, I, 27.

philosopher's thought is seen in his reiterated disparagement of a middle course in affairs of state.[1]

Finally, the separation of politics from ethics and religion is maintained by Machiavelli consciously as a result of the conviction that this corresponds most closely to the facts of human existence. He is in the fullest sense a student of practical politics, and he seeks to determine the workings of a real, not of an ideal, political life. Imaginary and impossible states have for him no interest whatever. His purpose is "to get back to the actual truth of things."[2] There is, he says, the greatest difference between the way in which men live and that in which they ought to live; and the former, not the latter, is deliberately chosen as the subject of his investigations.

This point of view was, of course, most useful. It corrected the tendency to make of political science a mere congeries of moral and religious precepts. At the same time it involved the interpretation of history and the formulation of political philosophy in terms of the most advanced rationalism of the pagan Renaissance. In the intellectual classes of Machiavelli's day moral and religious emotion was practically extinct. A calculating self-interest served for a practical standard of conduct, and a perfunctory observance of the forms of the Christian religion did not disguise a widespread rejection of its substance. It was easy, therefore, in such an environment for Machiavelli to formulate his political philosophy

[1] *Discourses*, I, 26 and 30.

[2] . . . mi è parso piu conveniente andare dietro alla verità effettuale della cosa. — *Il Principe*, cap. 15.

independently of ethical and theological influences. It was easy for him, also, in the presence of such careers as those of the Borgias, to present "the actual truth of things" as expressed in the dissociation of political from moral and religious principles and practices. And it was very natural for him to heap invective upon the Roman Church, not so much for having abandoned its religion, as for having violated all the scientific proprieties by assuming a leading place in politics.[1]

On the whole it must be said that while Machiavelli's attitude toward morality and religion was scientifically justifiable, and contributed greatly to the clarification of the problems of politics, the lack of feeling which characterized the expression of his views afforded considerable ground for the suspicion that he was not only scientifically unmoral, but also practically immoral, and for the criticism to which he has been subjected throughout succeeding centuries. Yet it may be doubted whether, with all the reproach that is due him, he has not been too severely punished by having to bear the odium that is concentrated in the term "Machiavellian."

4. *Theory of Political Motives*

So far as Machiavelli's method requires generalizations or assumptions as to the motives by which men are guided in social and political life, his doctrine is essentially identical with that to which Hobbes later gave a very precise scientific form. Men are looked

[1] *The Prince*, c. 11; *Discourses*, I, 11.

upon as purely selfish, and as actuated always by impulses in which the so-called social virtues have no part. A narrow self-interest affords for Machiavelli a sufficient explanation of all political phenomena. His cynical judgments on this subject are even more repulsive than those of Hobbes, for the reason that they lack the broad psychological foundation on which the latter carefully placed them.

Particularly frank are Machiavelli's opinions as expressed in *The Prince*. Generally speaking, he says, men are "ungrateful, fickle, deceitful, cowardly and avaricious." From this is drawn the conclusion that a monarch should aim rather to be feared than to be loved. Love, he argues, implies a bond of obligation which men, being essentially selfish, break on every occasion where their own interest demands it; while fear, for the same reason, holds them indefinitely.[1] Again, the simple-mindedness of men and their readiness ever to submit to the necessity of the moment make them an easy prey to an unscrupulous leader. "He who wishes to deceive will always find some one to be deceived."[2] Men judge altogether by appearances, and this gives opportunity to the crafty ruler. But further, men are not only in general weak and ignorant, they are naturally vicious, and are made good only by necessity. It is for this reason that the wise prince can never trust to counsellors, but must depend upon his own judgment.[3]

[1] *The Prince*, c. 17. [2] *Ibid.* c. 18.

[3] ". . . gli uomini sempre ti riusciranno tristi, se da una necessità non sono fatti buoni. Però si conchiude che li buoni consigli, da

These pessimistic conceptions of human nature appear abundantly also in the *Discourses*, where they receive a somewhat fuller psychological setting. Machiavelli brings over bodily from Polybius the latter's theory as to the origin and cycle of governments and the foundation of social institutions. This theory puts into the background the Aristotelian view of the social nature of man and is readily adaptable to the view that society has its origin in a calculating self-interest on the part of the individual.[1] Machiavelli gives to this general line of thought a distinctly materialistic turn in his comments on the Agrarian laws at Rome. Here, in a thoroughly Hobbesian manner, he sets forth that men have by nature endless desires, and that the craving for additional satisfaction of them is the mainspring of all human action. One of the most potent of these desires is that which finds satisfaction in private property. In *The Prince*[2] Machiavelli declares that "men more readily forget the death of a father than the loss of a patrimony," and bases on this the injunction that executions should be reasonably few, but confiscations none at all. In the *Discourses* this same idea receives fuller development, and a materialistic individualism is made the explanation of the love of independence and self-government. To a small extent these ends are sought from the desire to exercise power, but it is only a few individuals who are actuated by this

qualunque venghino, conviene naschino dalla prudenza del Principe, e non la prudenza del Principe da' buoni consigli." — *Il Principe*, cap. 23.

[1] *Discourses*, I, 2. *Cf. supra*, p. 115. [2] c. 17.

motive; the masses seek only security for person and property.[1] Republican government is desired because it gives a chance of material gain to a majority of the people; under monarchy the prince absorbs all the profit himself. And independence is desired because wealth multiplies most in states that are not subject to others.[2]

Material prosperity is, in short, Machiavelli's idea of the chief conscious basis of political life among men. How far this conception is from that of the ancient philosophers, that the state is an institution devoted to the moral and intellectual uplifting of a community, and from the mediæval notion, that the end of the state is primarily to smooth men's way to eternal salvation, it is not necessary further to demonstrate.

5. *The Forms of Government*

Machiavelli's treatment of the classification of governments starts with a perfunctory adoption of the Aristotelian system, namely, monarchy, aristocracy and constitutional democracy, with the three corresponding corruptions — tyranny, oligarchy and democracy; and the same conclusion is reached with that of Polybius and Cicero, that a mixed form is the best and most stable.[3] This line of thought is not followed

[1] Una piccola parte di loro desidera d' essere libera per comandare; ma tutti gli altri, che sono infiniti, desiderano la libertà per vivere sicuri. — *Discorsi*, I, 16.

[2] *Discourses*, II, 2. The rule of a conquering republic is in Machiavelli's opinion far more destructive to the prosperity of subject states than that of a conquering prince.

[3] *Discourses*, I, 2.

out to any extent, however, and serious attention is concentrated on the characteristics and relative advantages of monarchies, or principalities, and popular governments, or republics. The blending of the ideas of antiquity with the influence of contemporary conditions is obvious at every step in the progress of his reflection. The isolated and non-expanding Hellenic city-state, republican or despotic, with its analogue in the Italian city-state; the expanding city-state of Rome, with its imperial development; and the recently founded quasi-national monarchy, — all combine in determining his conclusions. *The Prince* is essentially a study of monarchy in relation to the extension of political dominion, and *The Discourses* is in like manner a study of popular government in relation to the same end.

As between the princely and the popular form Machiavelli is very far from being the thoroughgoing advocate of despotism that an unfortunate reputation has tended to make him. His appreciation of republican government is no less pronounced than that of Aristotle himself, and in respect to this form the judgments of the Italian, making allowance for the difference in ideals, are in substantial agreement with those of the Greek. For a community in which a general economic equality prevails, Machiavelli holds that the commonwealth is the best and, indeed, the only possible form of government.[1] The people as a whole is, he thinks, wiser and no more

[1] . . . dove è equalità, non si puo fare Principato; e dove la non è, non si puo far Repubblica. — *Discorsi*, I, 55.

vacillating than a prince. The ingratitude of republics is no greater than that displayed by princes.[1] The judgment of the people, especially in such matters as the choice of officers and the assignment of honours, is in general sound and unimpeachable.[2] Granting that a prince is best suited to the original establishment of political or legal institutions, a popular government is best qualified to maintain them.[3] Again, republics keep faith better than princes, if not by choice, at least through the slower working of their organs.[4] And finally, in respect to that adaptation to times and circumstances which is essential to the success of any policy, the republic has an advantage over the monarchy, in that the character of the prince will not change with conditions, while among the many characters which participate in the service of a republic, one may always be found that is just suited to the particular needs of a given time.[5]

Machiavelli thus manifests no irrational preference for monarchy; and his judgments in respect to aristocratic power are almost wholly unfavourable. The antithesis of the great (*i grandi*) and the masses (*il popolo*) he considers a prime factor in the life of every city-state (*città*), and his feeling is frankly with the latter. The mass of the people he believes to be the

[1] *Discourses*, I, 58. [2] *Ibid.* I, 47–48. *Cf.* III, 34.
[3] *Ibid.* I, 58. [4] *Ibid.* I, 59.
[5] *Ibid.* III, 9. He illustrates by the rise of Fabius and Scipio at different stages of the Punic wars, and, on the other hand, by the career of Pope Julius II, whose fiery impetuosity never varied whatever the circumstances.

best support for an elective monarch,[1] to be the most effective instrument for the maintenance of independence, and to be far less productive of internal disturbance than the aristocracy.[2] The leading motive of the upper class he conceives to be in all cases the passion for the exercise of authority, while the masses desire only peace and order.[3] A landed aristocracy (*gentiluomini*), in particular, renders free government impossible.[4] This class, indeed, when possessing castles and subjects of their own, he considers fatal to all social order (*nimici d' ogni civiltà*). Where such conditions exist, as is the case in many parts of Italy, not only is the establishment of republican government impossible, but even monarchy can be set up only through the extinction or systematic transformation of the "gentlemen."

A high degree of appreciation for the commonwealth based on the mass of equal citizens, is thus a distinguishing feature of Machiavelli's philosophy. But he fully recognizes that circumstances require different forms of organization at different times and in different places, and he is particularly attracted by the problem as to what system of organization and action is best adapted to the establishment of far-reaching dominion. Thus what Plato and Aristotle regarded as unworthy of consideration by either statesman or philosopher, becomes with Machiavelli the central point of interest.

[1] *The Prince*, c. 9. [2] *Discourses*, I, 5. [3] *Ibid.* I, 16.
[4] Dove sono gentiluomini, non si possa ordinare repubblica. — *Discorsi*, I, 55.

6. *On the Extension of Dominion*

The theory and practice of extending monarchic dominion is chiefly to be found in *The Prince*, while the expansion of republics is the theme of *The Discourses*. The process in each case is regarded by Machiavelli not as involving the blending of two or more social or political organisms, but as consisting in the subjection of a number of states to the rule of a single prince or commonwealth. The French and Spanish monarchies, in whose constitutions Machiavelli finds much to admire, are regarded as groups of states rather than as single organizations, and in his plea for a united Italy he clearly has in mind a similar union. "No province," he says, "was ever united or happy save by becoming subject in its entirety to a single commonwealth or a single prince, as has happened in France and in Spain."[1] This conception of unity has little in common with that which inspired the heroic national politics of the nineteenth century; but it is precisely that which was to determine all the transformations of political geography in western Europe for three centuries after Machiavelli's death.

In *The Prince* the chief heads of the discussion are, first the acquisition and second the extension of princely power. Under the first head are set forth the methods by which principalities are

[1] Veramente alcuna provincia non fu mai unita o felice, se la non viene tutta alla ubbidienza d' una Repubblica o d' un Principe, come è avvenuto alla Francia ed alla Spagna. — *Discorsi*, I, 12.

founded, illustrated by the policy of characters so diverse as those of Moses and Cæsar Borgia. The former, with Cyrus, Romulus and Theseus, is taken to illustrate the acquisition of power by the individual's own resources and ability;[1] while the Borgia is taken as a typical instance of those who owe their success to good fortune and the aid of others. All these heroes were founders of new states. The extension of dominion by a prince already at the head of a government gives rise to what Machiavelli calls a mixed principality (*principato misto*). His discussion of the methods best adapted to the creation and enlargement of such organizations exhibits most fully, at the same time, the philosopher's intellectual acumen and his moral indifferentism.

The line of least resistance to the ambitious prince is through peoples of his own race. It is easy to hold acquisitions made in the same country (*provincia*) and where the same language is used; the conqueror has merely to extinguish the line of the former prince and let the old institutions remain. But acquisition of states (*stati*) in a country differing in language and institutions from that of the conqueror involves more complex problems, the solution of which was, on the whole, achieved most successfully by the Romans.[2] The most serious difficulties to a conquering prince arise in

[1] *Virtú.* This term is used by Machiavelli, like the Latin *virtus* and the Greek ἀρετή, without any ethical connotation.

[2] *The Prince*, c. 5.

connection with a state that has been under republican government prior to the conquest. Here the name of liberty and the memory of the ancient constitution will always serve as an inspiration to revolt; and the only safe policy is utterly to destroy the community.[1]

With all his admiration for the strong man, and all his confidence that the ability and resources of one truly great can determine the fate of states, Machiavelli nevertheless has a just appreciation of the persistent power inherent in the fundamental institutions (*gli ordini*) of a community. The surest test of the great man is his ability to introduce and maintain a new social and political constitution. The reformer is hampered by the open hostility of those who derive profit from the old order, and by the lukewarmness of those who have only hope, but no certainty, of benefit from the new. The prince who takes over the sovereignty of a state and leaves it to go on under its old institutions has a simple task; but he who assumes power in order to reform the constitution undertakes the most doubtful and dangerous of enterprises.[2] Success in this respect is what justifies the assignment of high position among statesmen to Moses, Cyrus, Romulus and Theseus; and the key to their success Machiavelli characteristically finds in the fact that they all took pains to have at hand armed force

[1] Chi diviene padrone di una città consueta a vivere libera, e non la disfaccia, aspetti di essere disfatto da quella. — *The Prince*, c. 5.

[2] *Ibid.*, c. 6.

sufficient to defend the new constitutions when persuasion ceased to be effective. That the inherent excellence of a new constitution is no guarantee of its permanence is proved, Machiavelli thinks, by the failure of reforming prophets who have not sustained themselves by arms, and notably by the recent case of Savonarola.

The tendency toward extension of dominion is, in Machiavelli's opinion, inevitable in both republics and monarchies. A prince is resistlessly impelled to such a policy by the insatiable craving for power, which is natural to men, and a republic, if not impelled by choice, is sure to be driven to it by necessity.[1] If the constitution of a republic is not such as to be suited to a policy of expansion, the foundations of the state will be torn away when the necessity for such a policy arises, and the constitution will be destroyed.[2]

In carrying out the extension of its dominion, the Roman Republic set an example which, in Machiavelli's opinion, no commonwealth can do better than implicitly follow. The elements of the Roman system he summarizes thus: Increase the population of the city; acquire allies rather than subjects; establish colonies in the conquered territory; turn all booty into the treasury; carry on war rather by field campaigns and pitched battles than by sieges; keep the state rich and the individual poor; and with the

[1] *Discourses*, I, 6; II, 19.

[2] Avendo ordinata una Repubblica atta a mantenersi non ampliando, e la necessità la conducesse ad ampliare, si verrebbe a torre via i fondamenti suoi, ed a farla rovinare piu presto. — *Discorsi*, I, 6.

utmost care maintain a well-trained army.[1] It is noteworthy that the greatest stress here, as in the discussion of successful monarchy, is put upon the force of arms. It is Machiavelli's fixed belief, due as much to his observation in Italian politics as to the teachings of history, that a well-trained citizen-soldiery is indispensable in a republic, not only for the purpose of aggrandizement, but even for maintaining existence. Both his active career in the Florentine administration and his philosophical writings testify to his interest in the substitution of a popular militia for the mercenary bands that constituted the bulk of the fighting forces of his day.[2] In the *Discourses* he devotes a very clever chapter to demonstrating the falsity of the common saying that "money is the sinews of war."[3] Not money, but good soldiers, are in reality the essence of strength; for, he says, "money will not always procure good soldiers, but good soldiers will always procure money."

But with all Machiavelli's cynical exaltation of physical force as the foundation of the greatness of states, he will not, in last analysis, concede that this factor is as decisive as craft. He holds it unquestionable truth that men never rise from insignificance to greatness without the use of force and craft; but while force without craft is never sufficient, craft

[1] *Discourses*, II, 19.

[2] He carried out in Florence a project for the organization of a citizen militia. See Villari, *Niccolò Machiavelli e i suoi tempi*, I, 509 *et seq.*

[3] *Discourses*, II, 10.

without force will meet with success.[1] This principle applies not only to principalities, but also to republics, as he amply demonstrates by reference to the career of the Romans.

7. *On the Preservation of Dominion*

While the more or less definite conviction that every government must either extend its authority or perish, gives to Machiavelli's doctrine of aggrandizement the chief importance in his philosophy, nevertheless his works abound in striking presentations of the principles on which depends the ordinary peaceful working of both monarchic and republican institutions.

For the stability of princely governments, the first great rule of policy is respect for the established institutions and customs of the land. Men who are well governed, and whose familiar ways of life are let alone, will not seek for any further liberty.[2] This is a consideration which should guide both hereditary and usurping monarchs. In the former class, however, Machiavelli's interest is not very great; with ordinary sagacity the hereditary prince has an easy task.[3] But the newly established prince has to confront a more troublesome situation, and the dictates of sound policy for such a ruler are always more particularly in Machiavelli's mind. *The Prince* embodies

[1] Io stimo che rado o non mai intervenga che gli uomini di piccola fortuna vengono a gradi grandi senza la forza e senza la fraude. . . . Nè credo si truovi mai che la forza sola basti, ma si troverà bene che la fraude sola basterà. — *Discorsi*, II, 13.

[2] *Discourses*, III, 5.

[3] *The Prince*, c. 2.

a comprehensive analysis of the art of tyranny, with conclusions that in very many respects coincide with those of Aristotle in his discussion of the same subject.[1]

Because all government rests ultimately on force,[2] the prince must have a good army — a proposition which excludes dependence on foreign mercenaries or allies. He must, on the whole, be parsimonious with his own money and that of his subjects, but lavish in distributing the spoils of war.[3] Severity rather than mildness must characterize his attitude in public affairs, but above all things he must keep his hands off the property and the women of his subjects.[4] He should endeavour to be, so far as possible, at the same time feared but not hated by the people; and accordingly those duties of administration which involve odious responsibility should be performed by subordinates, while acts of grace should be attended to by the prince in person.[5] He must, moreover, embrace every opportunity to develop a reputation for exalted purposes and character. He must keep the people busy with great enterprises, must surround all his actions with an air of grandeur, must take open and decided part in the controversies of neighbouring

[1] In *The Politics; cf. supra*, p. 91 *et seq.*

[2] I principali fondamenti che abbino tutti gli stati . . . sono le buone leggi e le buoni armi; e . . . non possono essere buone leggi dove non sono buoni armi. — *Il Principe*, c. 12. [3] *Ibid.* c. 16.

[4] *Ibid.* Abuse of subjects in these two respects is the most fruitful cause of conspiracies. See *Discourses*, III, 6, where conspiracies receive most elaborate and exhaustive discussion.

[5] *The Prince*, c. 19. Machiavelli regards the French *parlement* as an institution devised by the king to relieve the crown of the hostility aroused by curbing the power of the nobles.

states, must pose as the patron of distinguished ability in the fine arts, and, finally, must liberally encourage the useful arts of commerce and agriculture, and refrain from interfering with them by burdensome taxation.

These dictates of enlightened despotism are thoroughly blended, in their presentation, with the maxims of non-moral conduct which have already been described.[1] The combination is a pretty good picture of the actual working of monarchic government in Machiavelli's own time. His corresponding discussion of the principles of republican government also involves a faithful reflection of actual conditions. But on this subject there is distinguishable at times an undertone of personal feeling which is totally lacking in *The Prince*, and which gives evidence of the fact that at heart Machiavelli had a preference for popular government.

His idea of a commonwealth, or republic (*Repubblica*), is wholly that of antiquity, namely, a city-state. The thought that popular government could be organized for a whole "province" never appears. So also, as in ancient thought, the commonwealth implies the rule of the mass of the people (*il popolo*) as distinguished from the aristocracy (*i grandi; la nobiltà*). "Liberty" (*libertà*) is used, without discrimination, to designate either independence with respect to any external power, or a condition in which government is in the hands of the people rather than of the nobles or an individual.[2] The ancient distinc-

[1] *Supra*, p. 298 *et seq.*

[2] *Cf. Discourses*, II, 2.

tion between "pure" and "corrupt" republics is maintained by Machiavelli, "corruption" meaning the absence of a sense of equality among the citizens. "Corruption" is recognized as an economic rather than a political phenomenon, caused by the unequal accumulation of wealth, and as such the philosopher does not undertake to discuss the ways and means of preventing it, but merely assumes its existence.[1] His problem is to indicate what is essential for the maintenance of popular government in either pure or corrupt communities. The example of Rome is so influential in determining his philosophy on these points that his views amount to a panegyric on the Roman Republic as idealized by the poets and historians of the post-republican age. It is worth while to consider, however, a few particular judgments in which Machiavelli, while basing himself primarily on the recitation and eulogy of Roman practice, gives to his reflections the character of universal political science.

Here belongs his analysis of the interrelationship of constitution, custom and law in their bearing upon the permanence of republican government. The distinction between the fundamental law of the state (*gli ordini*) and ordinary legislation (*le leggi*) is consistently maintained by Machiavelli.[2] Legislation

[1] He does, however, repeatedly declare that the citizens should be kept poor, even if the state become rich.

[2] In the *Discourses*, I, 18, he uses, in addition to the collective term, *gli ordini*, the phrase *l' ordine del governo, o vero dello stato*, indicating the sense of a distinction between state and government, such as was a little later put into systematic form by Bodin.

and custom, he sees, are closely interdependent; a change in custom will easily be followed by corresponding changes in the laws. But the constitution does not thus share these changes. Remaining intact, it becomes by degrees out of harmony with custom and legislation, and therefore a source of ruin to the state. An adaptation of constitution as well as law to the varying conditions in a state is indispensable to the preservation of republican government. If the constitution is not flexible, the necessary adjustment will be effected, after disastrous delay, suddenly and by violence rather than gradually and by peaceful procedure, and the result is likely to be the entire destruction of the old order, as happened in Rome. But modification of the fundamental law in republics should always be made with the least possible deviation from ancient forms, however great the change in substance; for people are in general content with appearances and do not penetrate to the realities of things.[1]

No less noteworthy than this appreciation of constitutional reform as a means of escaping revolution is Machiavelli's appreciation of the necessity of provision in a republic for the exercise of absolute power by some officer of the government in great emergencies. The dictatorship he regards as one of the most essential features of the republican constitution of Rome, and one of those which contributed most to the greatness of the state.[2] Popular governments

[1] L'universale degli uomini si pasce così di quel che pare come di quello che è. — *Discorsi*, I, 25.

[2] *Discourses*, I, 34.

particularly need provision for prompt and efficient action in critical times, from the fact that the normal action of the administration, requiring as it does the coöperation of many wills, is feeble and slow. If the constitution does not provide for the necessary concentration of authority, the constitution will be broken when the stress comes and the requisite action will be taken regardless of the fundamental law. Thus, however, a precedent will be created in a good cause which may later be followed in a bad. The Roman dictatorship, therefore, carefully limited as it was by well-defined methods of creation and termination, furnishes a model for all free governments.[1]

This judgment upon the necessity of dictatorial power in republics was as sound as it was unusual. On another prominent feature of Roman history, Machiavelli likewise takes issue with the common opinion. The party controversies between plebs and nobles he regards not as evidence of unsoundness and sources of disaster in the state, but as an indispensable condition of Roman greatness.[2] His reasoning approaches that of the modern school which sees in friction and strife the conditions of continuous existence. One must not be deceived, he in substance says, by the noise and tumult of party contention. These

[1] The idea that it was the existence of the dictatorship that enabled Cæsar to enslave Rome, and that hence such an institution is dangerous, is dismissed with the characteristic observation that it was the power and not the official title of Cæsar that overthrew the republic, and that if the name and office of dictator had not been at hand, the power which he employed would merely have taken some other name. *Discourses*, I, 34.

[2] *Ibid.* I, 34.

are not of the essence of the matter. Under cover of the shouting and the stress of the controversy are produced results which, while not consciously in the purpose of the contestants, are of vital importance to the state. Party struggles furnish a necessary vent to the emotions and ambitions of the common people, test the powers and demonstrate the ability of the leading citizens, and call into existence the institutions and laws which prove the mainstay of the government in later days. All these results are discoverable in the history of Rome, and all are essential to an expanding republic.[1] Channels through which the feelings (*umori*) of the common people may find adequate and harmless expression are, in Machiavelli's opinion, of the greatest importance, and he suggests various other means to this end, particularly approving ample facilities for the making and judicial investigation of charges against public characters.[2] Men of real distinction and marked ability are always looked upon with suspicion by the masses. In times of peace and quiet they are wholly neglected in republics, and the leadership falls into the hands of the rich and well connected.[3] An escape from the perils of such a tendency was found by Rome, he thinks, in the policy of incessant war, through which the best of her citizens were kept always to the front.

For the republic which would correspond most

[1] Sparta and Venice, as types of the non-expanding republic, did not exhibit the phenomena of party strife. *Discourses*, I, 6.

[2] *Ibid.* I, 7.

[3] *Ibid.* III, 16.

closely to Machiavelli's ideal, therefore, vehement internal party strife and an ever aggressive foreign policy, would be normal and indispensable conditions of existence. This again throws a strong light on the divergence, which the many resemblances serve to emphasize, between the Machiavellian and the Aristotelian politics.

8. *Summary and Conclusion*

The influence of Machiavelli upon the history of political theories can hardly be exaggerated. Not only the method and substance of his philosophy but also the marvellous literary art with which it was expressed served to win for it universal attention. Criticism of his doctrine developed into vehement controversy, in which a grotesquely distorted conception of his system, labelled Machiavellism by its adversaries, brought much open obloquy upon the philosopher, and at the same time stimulated, though less conspicuously, much respect for and adoption of his method and his real principles. By far the foremost among the ideas which the Florentine made prominent in political science was that of a distinction between the standards of public and of private morality. On this point has turned most of the discussion of which Machiavellism has been the centre. The whole trend of theory under the influences which characterized the time of the Reformation was against the view which Machiavelli propounded; but the practice of the age continued to furnish, like all preceding ages, incontestable evidence that the "reason of state"

took precedence, in political life, of the moral code which was recognized as valid between man and man. In Frederick the Great of Prussia Machiavellian doctrine received a particularly noteworthy confirmation. For Frederick, as a mere irresponsible philosopher, roundly berated the Italian for the immoral teachings of *The Prince;* but in later life, as the ambitious head of a struggling and sorely beset state, he exemplified in his policy some of the very maxims which he had most solemnly denounced.

Next in importance to his view of the relation between politics and morality, in its influence on later political philosophy, was Machiavelli's method — his reunion of theory and practice. Though the mediæval tendency to philosophize "in the air" — to speculate on the basis of conditions which had lost, if they ever had possessed, the semblance of reality — by no means entirely disappeared after Machiavelli's time; though it continued for a century or more to characterize a large body of political literature: yet his relentless empiricism gave an impulse to the method of observation and experience which was not exhausted till the last vestiges of mediævalism in political theory had vanished.

Finally, a summary of the chief influences which radiated from Machiavelli into the broad field of political science must include reference to his doctrine of aggrandizement. In the assumption that extension of power was the test of excellence in government, he established a philosophic basis for accepting as rational and as a fit subject for reflection, that con-

solidation of states which was so prominent a fact of the times. In suggesting — for he did not strongly press the idea — that the logical limit of this consolidation in any case was the limit of ethnic homogeneity, he projected an influence which was felt in the nineteenth century. But the doctrine of nationality, which has thus far played so prominent a part in the expansion of states, has in reality no logical relation to Machiavelli's fundamental principle. Already a multitude of other bases for conquest, more adequate to later necessities, are familiar to current thought. To justify the extension of political power the Aryan is devised, with a claim to dominate the Semite or the Turanian, the "political peoples" are assigned the desired preëminence over the "non-political," the civilized over the uncivilized. Nationality has proved merely a temporary and transitional phase of the trend toward expansion on Machiavellian lines, which has in fact no logical limit save that of power.

Machiavelli is sometimes called the first modern political philosopher. It is quite as accurate to say that he ends the mediæval era as that he begins the modern. Great as was his influence in stimulating reflection, it was not by his radical rejection of all the characteristics of mediæval political theory that the modern era was introduced. Western Europe could not be rationalized and paganized off-hand. Before the death of Machiavelli, Luther gave the signal for the movement which was to keep the

intellectual energy of Europe fully occupied for a hundred and fifty years in the fields of theology and morals. Machiavellian doctrine was influential during this time, though Machiavelli's name was execrated by all parties. Only after the Reformation had been succeeded by the Revolution was frank and open recognition given to Machiavelli's philosophical depth and practical political sagacity.

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